

SCHEDULES

SCHEDULE 4

TRANSITIONAL PROVISIONS AND SAVINGS

PART II

PROVISIONS RELATING TO PARTICULAR ENACTMENTS

Interpretation

- 5 In this Part of this Schedule—
- (a) the “1979 Act” means the Justices of the Peace Act 1979;
 - (b) the “1994 Act” means the Police and Magistrates' Courts Act 1994; and
 - (c) any reference to the commencement of this Act shall be construed in accordance with section 74(1) of this Act.

Petty sessions areas

- 6 The repeal by this Act of—
- (a) paragraph 9 of Schedule 1 to the 1979 Act (saving for petty sessional divisions); or
 - (b) section 91(3) of the 1994 Act (saving for petty sessional divisions of inner London area),
- does not affect the continued existence of any petty sessions area.

Inner London area

- 7 (1) If section 83(1) of the 1994 Act (administrative and financial arrangements for magistrates' courts) has not come into force in relation to the inner London area before the commencement of this Act then, until the relevant commencement date, sections 55 and 56 of this Act shall not apply in relation to that area.
- (2) If section 83(2) of the 1994 Act (repeal of sections 57 and 58 of 1979 Act), so far as it relates to section 58 of the 1979 Act (duties of Receiver in relation to inner London area), and the repeal of section 58 of the 1979 Act by Part II of Schedule 9 to the 1994 Act have not come into force before the commencement of this Act then, until the relevant commencement date—
- (a) notwithstanding the repeal of the 1979 Act by this Act—
 - (i) section 58 of the 1979 Act shall continue to have effect; and
 - (ii) section 70 of the 1979 Act (interpretation) shall continue to have effect for the purpose of interpreting section 58 of that Act;

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- (b) section 54 of this Act shall have effect as if the Receiver for the Metropolitan Police District were the paying authority for the purposes of that section in respect of a justice or justices' clerk acting for the inner London area;
 - (c) any reference in any enactment to Part VI of this Act (including the reference in section 57(1)(a) of this Act) shall have effect as if it included a reference to section 58 of the 1979 Act;
 - (d) the Receiver for the Metropolitan Police District shall be—
 - (i) the paying authority and the responsible authority for the purposes of section 82 of the Road Traffic Offenders Act 1988 (accounting for fixed penalties); and
 - (ii) the paying authority for the purposes of section 76 of the Criminal Justice Act 1991 (provision of court security officers)
 in relation to the magistrates' courts committee for the inner London area;
 - (e) the provisions of subsections (3) and (4) of section 76 of the Criminal Justice Act 1991 shall not apply in relation to the magistrates' courts committee for the inner London area; and
 - (f) the repeals by this Act of—
 - (i) section 60(6) of the Local Government Act 1985;
 - (ii) paragraph 7 of Schedule 11 to the Children Act 1989, so far as that repeal relates to paragraph (c) of that paragraph; and
 - (iii) paragraph 40(2)(k) of Schedule 11 to the Criminal Justice Act 1991, shall not come into force.
- (3) If paragraph 1 of Schedule 8 to the 1994 Act has not come into force before the commencement of this Act then, until the relevant commencement date, section 10 of this Act shall have effect—
- (a) as if in subsection (7), after paragraph (a), there were inserted—
 - “(aa) in relation to a justice for the inner London area, the Receiver for the Metropolitan Police District;”;
 - (b) with the omission of subsections (8)(a) and (9).
- (4) If paragraph 19(3) of Schedule 8 to the 1994 Act has not come into force in relation to the inner London area before the commencement of this Act then, until the relevant commencement date, section 57 of this Act shall have effect in relation to the inner London area as if the Receiver for the Metropolitan Police District were the responsible authority for the purposes of that section.
- (5) If paragraph 23 of Schedule 8 to the 1994 Act has not come into force before the commencement of this Act then, until the relevant commencement date, paragraph 27(2) below shall have effect as if the reference to sections 55 and 56 of this Act included a reference to section 58 of the 1979 Act.
- (6) If the repeal by Part II of Schedule 9 to the 1994 Act of words in section 59(1)(b) of the 1979 Act has not come into force before the commencement of this Act then, until the relevant commencement date, section 57 of this Act shall have effect as if, at the end of subsection (1)(b), there were inserted the words “or, in the case of the Receiver for the Metropolitan Police District, his corresponding functions”.
- (7) “Relevant commencement date”, in relation to any of sub-paragraphs (1) to (6) above, means—
- (a) if before the commencement of this Act a date on or after the date of that commencement has been appointed by an order under section 94 of the 1994

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- Act (commencement and transitional provisions) as the date on which the provision (or provisions) of the 1994 Act mentioned in that sub-paragraph is (or are) to come into force (or is to come into force in relation to the area, or for the purpose, so mentioned), the date so appointed; and
- (b) otherwise, such date as the Lord Chancellor may by order appoint.
- (8) Subsections (4), (5), (7) and (8) of section 94 of the 1994 Act shall apply to an order under sub-paragraph (7)(b) above as they would apply to an order under subsection (2) of that section.
- 8 (1) If paragraph 24 of Schedule 8 to the 1994 Act has not come into force before the commencement of this Act, then paragraph 4 of Schedule 5 to this Act shall not come into force until immediately after that provision of the 1994 Act has come into force.
- (2) If paragraph 35 of Schedule 8 to the 1994 Act has not come into force before the commencement of this Act, then paragraph 30(a) of Schedule 5 to this Act shall not come into force until immediately after that provision of the 1994 Act has come into force.
- 9 The committee established for the purposes of section 34A of the 1979 Act (division of work in inner London area) shall after the commencement of this Act continue in existence as the committee established for the purposes of section 20 of this Act and each person who immediately before the commencement of this Act holds office as a member of the committee shall continue to hold office as a member until the expiry of the period for which he was appointed under section 34A(3) of the 1979 Act.
- 10 Subject to any order made under section 32 of this Act—
- (a) any reference in any document to the committee of magistrates shall have effect, in relation to any time on or after 1 April 1995, as a reference to the magistrates' courts committee for the inner London area; and
- (b) without prejudice to the generality of paragraph 1 above or 13 below, the body corporate formerly constituted under section 35 of the 1979 Act (committee of magistrates for inner London area) which, by virtue of section 79(2) of the 1994 Act (savings), is the magistrates' courts committee for that area shall continue to be that magistrates' courts committee.
- 11 (1) Sub-paragraph (2) below applies to any person who, immediately before the commencement of this Act is treated by virtue of section 80(2) or (3) of the 1994 Act (abolition of offices of principal chief clerk and chief clerk: savings) as having been appointed by the magistrates' courts committee for the inner London area—
- (a) under section 24D of the 1979 Act, as justices' chief executive; or
- (b) as a justices' clerk—
- (i) under section 25 of that Act, for any petty sessional division of the inner London area; or
- (ii) under section 34B of that Act, for the youth courts or family proceedings courts for that area and the City of London.
- (2) Subject to section 42(5) to (7) of this Act, any person to whom this sub-paragraph applies shall hold and vacate office—
- (a) in accordance with the terms of his appointment; or
- (b) if he has entered into a contract of service, in accordance with the terms of his contract of service.

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- (3) Where, immediately before the commencement of this Act, a person is employed under a contract of service to which subsection (5) of section 80 of the 1994 Act (abolition of offices of senior deputy chief clerk and deputy chief clerk: savings for contract of service) applies—
- (a) the repeal by this Act of that subsection shall not affect the continuation of that person's contract of service;
 - (b) he shall not be dismissed from his employment without the approval of the Lord Chancellor; and
 - (c) before approving his dismissal the Lord Chancellor shall consider any representations made by him.
- (4) 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 on or after 1st April 1995, as a reference to the justices' clerk for that petty sessional division or, as the case may be, for those courts.

Stipendiary magistrates

- 12 (1) This paragraph applies where immediately before the commencement of this Act a stipendiary magistrate who holds office in any commission area or commission areas is treated by virtue of paragraph 7(b) of Schedule 1 to the 1979 Act (stipendiary magistrates appointed under section 29 of the Justices of the Peace Act 1949 who held office immediately before 1st April 1974) as having been appointed under section 13 of the 1979 Act.
- (2) The stipendiary magistrate shall continue to hold office in that commission area or those commission areas as if appointed under section 11 of this Act.
- (3) His salary shall not be less than that payable to him immediately before 1st April 1974.
- (4) For the purposes of section 12 of this Act he shall be treated as having been appointed on the date on which he was appointed to the office which he held immediately before 1st April 1974.
- (5) Sub-paragraph (2) above is without prejudice to the generality of paragraph 1(2) above.

Magistrates' courts committees

- 13 Any magistrates' courts committee which was set up in accordance with the provisions of Part II of the 1979 Act for any area and is in existence immediately before the commencement of this Act shall after that commencement be treated as having been set up in accordance with the provisions of Part III of this Act as the magistrates' courts committee for that area.
- 14 Without prejudice to the generality of paragraph 1(2) above, the repeal by this Act of section 69 of the 1994 Act does not affect the continued operation of any order made under that section before the commencement of this Act.

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Justices' chief executives

- 15 (1) If, before the commencement of this Act, section 75 of the 1994 Act has not come into force, so far as it inserts section 24D(5) in the 1979 Act, in relation to the appointment of a justices' chief executive by the magistrates' courts committee for Hampshire, Kent or Lincolnshire, then, until the relevant commencement date, section 40 of this Act shall have effect in relation to such an appointment with the omission of subsection (5).
- (2) In sub-paragraph (1) above, "relevant commencement date" means, in relation to such an appointment—
- (a) if before the commencement of this Act a date on or after the date of that commencement has been appointed by an order under section 94 of the 1994 Act (commencement and transitional provisions) as the date on which section 75 of that Act, so far as it inserts section 24D(5) in the 1979 Act, is to come into force in relation to such an appointment, the date so appointed; and
- (b) otherwise, such date as the Lord Chancellor may by order appoint.
- (3) Subsections (4), (5), (7) and (8) of section 94 of the 1994 Act shall apply to an order under sub-paragraph (2)(b) above as they would apply to an order under subsection (2) of that section.
- (4) The references to Hampshire, Kent and Lincolnshire in sub-paragraph (1) above are to those counties as they stood on 1st April 1995.
- 16 A person who, immediately before the commencement of this Act, continues to hold office as clerk to a magistrates' courts committee by virtue of Article 6(1) of the Police and Magistrates' Courts Act 1994 (Commencement No. 8 and Transitional Provisions) Order 1995 may continue in that appointment until the magistrates' courts committee have appointed a justices' chief executive in accordance with section 40(1) of this Act.

Justices' clerks etc.

- 17 (1) Section 44(1) of this Act shall not have effect in relation to any person appointed by a magistrates' courts committee before 1st April 1995 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 on or after that date.
- (2) Any justices' clerk in relation to whom, by virtue of sub-paragraph (1) above, section 44(1) of this Act does not have effect shall hold office during the pleasure of the magistrates' courts committee concerned.
- (3) Any such justices' clerk shall be paid a salary for his personal remuneration, and the salary shall be taken to be remuneration for all business which he may by reason of his office as justices' clerk be called upon to perform, other than any duties as secretary to a licensing planning committee under Part VII of the Licensing Act 1964.
- (4) Any such justices' clerk may be paid a single salary in respect of two or more clerkships.
- (5) Any such justices' clerk shall, in addition to his salary, be paid the amount of any expenses of a description specified when his salary is determined, being expenses

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incurred by him with the general or special authority of the magistrates' courts committee.

- 18 Any order made before 1st April 1953 under—
- (a) section 30 of the Criminal Justice Administration Act 1914; or
 - (b) section 1 of the Affiliation Orders Act 1914,
- which is in force immediately before the commencement of this Act and, by virtue of paragraph 14 of Schedule 1 to the 1979 Act, has effect as if it required payments under it to be made to a justices' clerk in his capacity as collecting officer of a magistrates' court shall, so long as the order remains in force, continue to have that effect by virtue of this paragraph.
- 19 So far as, immediately before the commencement of this Act—
- (a) section 23(7) of the Justices of the Peace Act 1949 (terms and conditions of employment of persons transferred to magistrates' courts committee on 1st April 1953); or
 - (b) paragraph 15 of Schedule 3 to the Justices of the Peace Act 1968 (terms and conditions of employment of persons transferred to certain magistrates' courts committees on 10th November 1969),
- has effect in relation to any person by virtue of paragraph 11 or 12 of Schedule 1 to the 1979 Act, it shall continue to have effect in relation to him.
- 20 (1) Any regulations made under—
- (a) section 42 of the Justices of the Peace Act 1949 (compensation in connection with Parts II and III of that Act); or
 - (b) paragraph 16 of Schedule 3 to the Justices of the Peace Act 1968 (compensation in connection with section 1 of that Act),
- which are in force immediately before the commencement of this Act by virtue of paragraph 13 of Schedule 1 to the 1979 Act shall continue to have effect and may be revoked or varied notwithstanding the repeal by the 1979 Act of the provisions under which they were made.
- (2) The reference in sub-paragraph (1)(a) above to section 42 of the Justices of the Peace Act 1949 includes a reference to that section as extended by section 32 of the Administration of Justice Act 1964 (extension for persons not qualified at date of enactment of the Justices of the Peace Act 1949).
- (3) The functions of a responsible authority mentioned in paragraphs (b) and (c) of section 57(1) of this Act do not include their functions in respect of decisions made by a determining authority before 3rd February 1995 under the Justices of the Peace Act 1949 (Compensation) Regulations 1978.

Immunity and indemnification of justices and justices' clerks

- 21 Subject to paragraphs 22 and 23 below, the provisions of Part V of this Act shall have effect in relation to anything done, or omitted, before the commencement of this Act as they would have effect in relation to any corresponding thing done, or omitted, after the commencement of this Act.
- 22 The repeal by this Act of the 1979 Act is subject to paragraph 16(1) of Schedule 19 to the Courts and Legal Services Act 1990 (1979 Act to continue to apply in relation to matters arising before 1st January 1991 as if section 108 of that Act of 1990 (liability of magistrates for damages and costs) had not been enacted).

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- 23 In section 54(2) of this Act—
- (a) paragraph (a) shall have effect only in relation to things done or omitted on or after 1st October 1996; and
 - (b) in relation to things done or omitted before that date, paragraph (b) shall have effect with the omission of the word “other”.

Pensions Act 1995

- 24 (1) If before the commencement of this Act paragraph 8 of Schedule 5 to the Pensions Act 1995 has not come into force then, until the relevant commencement date, section 55(6)(b)(ii) of this Act shall have effect with the substitution, for the words “contributions equivalent premiums”, of the words “state scheme premiums”.
- (2) In sub-paragraph (1) above, “relevant commencement date” means—
- (a) if before the commencement of this Act the Secretary of State has made an order under section 180 of the Pensions Act 1995 (commencement) appointing a date on or after the date of that commencement as the date on which paragraph 8 of Schedule 5 to that Act is to come into force, the date so appointed; and
 - (b) otherwise, such date as the Secretary of State may by order appoint.
- (3) Sections 174 (orders and regulations) and 180(4) of the Pensions Act 1995 shall apply to an order under sub-paragraph (2)(b) above as they would apply to an order under section 180(1) of that Act.

Enactments passed before 18th April 1973

- 25 (1) This paragraph applies where, immediately before the commencement of this Act, any enactment passed or instrument made before the 18th April 1973 has effect by virtue of section 71(3) of the 1979 Act (modifications of certain enactments and instruments) as if it referred to—
- (a) a person being appointed or removed from office as a justice of the peace in accordance with section 6 of the 1979 Act; or
 - (b) the supplemental list for England and Wales kept under section 8 of the 1979 Act.
- (2) After the commencement of this Act the enactment or instrument shall have effect as if—
- (a) any reference to a person appointed justice by a commission of the peace or to a person being removed from a commission of the peace were a reference to his being appointed or removed from office as a justice of the peace in accordance with section 5 of this Act; and
 - (b) any reference to a supplemental list kept by virtue of section 4 of the Justices of the Peace Act 1949 in connection with the commission of the peace for any area were a reference to the supplemental list for England and Wales kept under section 7 of this Act.

Justices of the Peace Act 1949, Schedule 2

- 26 (1) This paragraph applies where, immediately before the commencement of this Act, any reference in Schedule 1 to the 1979 Act to any enactment under which a person held or was treated as holding any office or employment is to be construed by

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virtue of paragraph 15 of that Schedule as including a reference to any provision of Schedule 2 to the Justices of the Peace Act 1949.

- (2) Any reference in this Schedule which corresponds to that reference in Schedule 1 to the 1979 Act shall be construed as including a reference to that provision of Schedule 2 to the Justices of the Peace Act 1949.

Saving for superannuation provisions

- 27 (1) Nothing in this Act shall affect any pension rights or other superannuation benefits or the person by whom or the manner in which any pension or other superannuation benefit is to be paid or borne.
- (2) Sub-paragraph (1) above is subject to sections 55 and 56 of this Act.

Saving for amendment of Local Government Act 1974

- 28 The repeal by this Act of the 1979 Act does not affect the amendment made by paragraph 28 of Schedule 2 to that Act to section 1(6)(a) of the Local Government Act 1974 (rate support grants).

Provision made by subordinate legislation

- 29 Any power which, immediately before the commencement of this Act, is exercisable by order to amend or revoke any provision reproduced in this Schedule of an order made under section 94 of the 1994 Act shall be so exercisable in relation to the corresponding provision of this Schedule.