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STATUTORY INSTRUMENTS

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**1985 No. 1383**

**LOCAL GOVERNMENT, ENGLAND AND WALES**

**The Local Government (Magistrates' Courts Etc.) Order 1985**

<i>Made</i>	- - - -	<i>5th September 1985</i>
<i>Laid before Parliament</i>		<i>10th September 1985</i>
<i>Coming into Operation</i>		
<i>For the purposes of Article 8</i>		<i>1st April 1986</i>
<i>For all other purposes</i>		<i>1st October 1985</i>

In exercise of the powers conferred upon me by section 101 of the Local Government Act 1985, I hereby make the following Order:—

**Citation and Commencement**

1. This Order may be cited as the Local Government (Magistrates' Courts etc.) Order 1985 and shall come into operation for the purposes of Article 8 on 1st April 1986 and for all other purposes on 1st October 1985.

**Interpretation**

2. In this Order—

- “the 1979 Act” means the Justices of the Peace Act 1979;
- “the 1985 Act” means the Local Government Act 1985;
- “existing magistrates' courts committee” means a magistrates' courts committee under section 19(2)(c) of the 1979 Act as in force immediately before 1st April 1986;
- “existing petty sessions area” means a petty sessions area within the meaning of section 4(2) of the 1979 Act as in force immediately before 1st April 1986;
- “justice” means a justice of the peace and any reference to a justice for a petty sessional division or petty sessions area shall be construed as a reference to a justice who ordinarily acts, or as the case may be, will on and after 1st April 1986 ordinarily act, in and for that division or area;
- “outer London area” means any of the London commission areas specified in section 2(1)(b) to (e) of the 1979 Act;

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“petty sessions area” has, except where the context otherwise requires, the same meaning as in section 4(2)(d) of the 1979 Act as amended by section 12(2) of the 1985 Act as if, as regards a time before 1st April 1986, the said section 12 were then in force.

### **Preliminary Arrangements**

**3.—(1)** The justices who from 1st April 1986 will ordinarily act for a petty sessions area shall as soon as may be before 1st April 1986 make all such arrangements for that area as are necessary for the purposes of enabling the magistrates' courts for the area to exercise their jurisdiction on that date and of establishing before that date the several committees and other bodies to which members fall to be appointed or elected by the justices for the petty sessions area.

(2) Without prejudice to paragraph (1) of this Article, any committee or other body to which members are appointed or elected by justices who from 1st April 1986 will ordinarily act for a petty sessions area shall as soon as may be after being established and before 1st April 1986 make all such arrangements as are necessary for the purpose of enabling the magistrates' courts for the area to exercise their jurisdiction on that date and of enabling that committee or body to exercise all their functions not later than that date.

(3) In paragraphs (1) and (2) of this Article, “arrangements” include—

- (a) making appointments;
- (b) holding elections;
- (c) in the case of a magistrates' courts committee—
  - (i) considering the desirability of, and if necessary making recommendations under Schedule 2 to the Children and Young Persons Act 1933<sup>(1)</sup> for, the formation of a combined juvenile court panel for its petty sessions area and any other petty sessions area or areas which on 1st April 1986 will exist in the same outer London area;
  - (ii) considering the desirability of, and if necessary making a direction under Rule 13(1) of the Domestic Courts (Constitution) Rules 1979<sup>(2)</sup> (hereinafter called the 1979 Rules) for, the formation of a combined domestic court panel in respect of its petty sessions area and any other petty sessions area or areas which on 1st April 1986 will exist in the same outer London area;
  - (iii) considering what appointments should be made to the positions to which paragraph (8) of this article applies and what staff to enable the justices' clerk for the petty sessions area to carry out his duties should be employed and informing the Secretary of State of the results of those considerations;

but, except where the Secretary of State has agreed to a person being employed (whether by or on behalf of a magistrates' courts committee) as a member of the staff to enable the justices' clerk for the petty sessions area to carry out his duties, “arrangements” do not include employing such staff or making arrangements for such staff to be employed on behalf of a magistrates' courts committee.

(4) In paragraph (3)(a) of this Article, except where the Secretary of State has agreed to a particular appointment being made, “appointment” does not include appointment to a position to which paragraph (8) of this Article applies.

(5) For the purposes of this Article, sections 19, 20 and 22 of the 1979 Act shall have effect subject to the amendments made by section 12(4), (5) and (6) respectively of the 1985 Act.

(6) For the purposes of paragraph (3)(c)(i) of this Article, Schedule 2 to the Children and Young Persons Act 1933 shall have effect subject to the amendment made by article 8 of and paragraph 1 of the Schedule to this Order.

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(1) (Schedule 2 was substituted by section 17 of and Schedule 2 to the Children and Young Persons Act 1963 (c.37)).

(2) , amended by S.I. 1983/676.

(7) Any direction made pursuant to paragraph (3)(c)(ii) of this Article shall take effect on 1st April 1986 and the reference in Rule 13(3)(b) of the 1979 Rules to the relevant date specified in subparagraph (b) of Rule 13(1) of those Rules shall, in relation to such a direction, be treated as if it were a reference to 1st April 1986.

(8) This paragraph applies to appointments of officers of a magistrates' courts committee and justices' clerks.

#### **Manner of election to and period of office etc**

4.—(1) Where pursuant to Article 3 above an appointment is made to a body or committee mentioned in paragraph (2) of this Article (including an appointment of chairman of any such committee) or an election is held for the chairman or deputy chairman of the justices in a petty sessions area, the appointment or election shall be made or held in the prescribed manner and the person so appointed or elected shall hold the appointment or be the chairman or deputy chairman, as appropriate, for the prescribed period.

(2) In paragraph (1) above the expressions “the prescribed manner” and “the prescribed period” mean, respectively—

- (a) in relation to the election of the chairman or deputy chairman of the justices in a petty sessions area, the manner prescribed by the Justices of the Peace (Size and Chairmanship of Bench) Rules 1964 but as if—
  - (i) the reference in Rule 4(5) of those Rules to the clerk to the justices for the petty sessions area were a reference to the clerk to the justices for any existing petty sessions area which, or part of which, is included in the petty sessions area for which the chairman or deputy chairman will act from 1st April 1986; and
  - (ii) the references in Rule 4(6), (8), (9) and (9A) of those Rules to the clerk to the justices were references to the clerk who prepared the ballot papers,and a period ending on 31st December 1986;
- (b) in relation to the appointment of members of the magistrates' courts committee for a petty sessions area and the appointment of the chairman of such a committee, the manner prescribed by the Magistrates' Courts Committees (Constitution) Regulations 1973(3) and, in the case of a member of the committee, a period ending on 30th November 1986 and, in the case of the chairman of the committee, a period until the first meeting of the committee held on or after 1st December 1986;
- (c) in relation to the appointment of members of a juvenile court panel for a petty sessions area, the manner prescribed by the Juvenile Courts (Constitution) Rules 1954(4) and a period ending on 31st December 1988;
- (d) in relation to the appointment of members of a licensing committee for a petty sessions area, the manner prescribed by Part I of Schedule I to the Licensing Act 1964 and a period ending on 31st December 1986;
- (e) in relation to the appointment of a betting licensing committee for a petty sessions area, the manner prescribed by the Betting (Licensing) Regulations 1960 and a period ending on 31st December 1986;
- (f) in relation to the appointment of members of a domestic court panel for a petty sessions area, the manner prescribed by the Domestic Courts (Constitution) Rules 1979 but as if the reference to the clerk to the justices in Rule 4(4) of those Rules were a reference to a

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(3) , amended by S.I. 1980/1258.

(4) , amended by S.I. 1976/1505, 1979/952 and 1983/675.

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clerk to the justices for any existing petty sessions area which, or part of which, is included in the petty sessions area for which the panel will act from 1st April 1986 and a period ending on 31st December 1986;

- (g) in relation to the appointment of a probation liaison committee for a petty sessions area, the manner prescribed by rules made under Schedule 3 to the Powers of Criminal Courts Act 1973 and a period ending on 31st December 1986.

(3) For the purposes of making the appointments of members of the magistrates' courts committee of a petty sessions area in accordance with paragraph (1) of this Article, Regulation 2(1) of the Magistrates' Courts Committee (Constitution) Regulations 1973 shall have effect subject to the amendment made by Article 8 of and paragraph 5 of the Schedule to this Order.

(4) For the purposes of making the appointments of members of a licensing committee for a petty sessions area in accordance with paragraph (1) of this Article, section 2 of the Licensing Act 1964 shall have effect subject to the amendment made by Article 8 of and paragraph 2 of the Schedule to this Order and the amendment to the definition of "petty sessions area" made by section 12(11) of the 1985 Act.

### **Preliminary Expenditure**

5.—(1) Subject to paragraphs (2) and (3) of this Article, the outer London borough council which will be responsible for paying the expenses on and after 1st April 1986 of the magistrates' courts committee for the borough shall defray any expenditure incurred before that date by or in connection with—

- (a) magistrates' courts for the petty sessions area comprising the borough;
- (b) the magistrates' courts committee for the borough;
- (c) any other body having functions in relation to the petty sessions area and comprised wholly or mainly of justices for that area, not being a probation committee or a probation liaison committee.

(2) Subject to paragraph (3) below of this Article, the nature and amount of the expenditure which may be incurred in connection with the matters set out in paragraph (1) of this Article, other than allowances paid to a justice of the peace under section 12 of the 1979 Act or expenditure incurred in connection with the establishment of the magistrates' courts committee, shall be such as may from time to time be determined by the committee after consultation with the council.

(3) If the council is aggrieved by the determination of the magistrates' courts committee under paragraph (2) above, it may within two weeks from the receipt of it of written notice of the determination, appeal to the Secretary of State, whose decision shall be binding upon the magistrates' courts committee and the council.

(4) Section 59 of the 1979 Act shall apply in respect of the net cost, determined in accordance with the provisions of that section, to the council of defraying the expenditure referred to in paragraph (1) of this Article as if, as regards the period before 1st April 1986, the council's function in defraying that expenditure were a function of a responsible authority under Part VI of the 1979 Act and the council were a responsible authority within subsection (6) of the said section 59.

### **Application of legislative provisions concerning Staff Commission**

6. Section 50 of the 1985 Act and section 4(2) and (3) of the Local Government (Interim Provisions) Act 1984 shall have effect as if the existing magistrates' courts committees for each of the outer London areas and the magistrates' courts committees for each of the outer London boroughs were relevant authorities within the meaning of subsection (3) of the said section 50 and for purposes of subsection (2) of that section the staff of a magistrates' courts committee (whether or not an existing committee) shall include a person appointed by such a committee.

### **Suspension of Elections etc**

7.—(1) Unless the justices for a petty sessional division of an outer London area otherwise resolve, the election to the offices and the appointments of or to the panel or committees to which paragraph (2) of this Article applies due, apart from this paragraph, to be held or made in October 1985 or, in the case of the appointments in sub-paragraph (c) of paragraph (2) of this Article, in October, November or December 1985 shall not take place and the persons holding the office or who are members of or form the panel or committee at the time the election or appointment would, apart from this paragraph, have been made shall continue to hold office or to be members of or to form the panel or committee, as appropriate, until immediately before 1st April 1986.

(2) This paragraph applies to—

- (a) the election of the chairman and deputy chairman of the justices in a petty sessional division of an outer London area;
- (b) the appointment of justices to form a juvenile court panel for such a division;
- (c) the appointment of members of a licensing committee for such a division;
- (d) the appointment of a betting licensing committee for such a division.

(3) Paragraph (1) of this Article shall apply to the appointment of members of an existing magistrates' courts committee for an outer London area as if the reference to a resolution of the justices for a petty sessional division were a reference to a resolution of the magistrates for the outer London area and paragraph (2) of this Article applied to the appointment of members of such a committee.

(4) Unless the justices for a petty sessional division of an outer London area otherwise resolve, the appointment of a member of a probation liaison committee for such a division due, apart from this paragraph, to be made before 1st April 1986 on the expiry of the appointment of a member of the committee shall not be made and any member of the committee whose membership, apart from this paragraph, is due to expire before that date shall continue to be a member of the committee until immediately before 1st April 1986, save that the justices may not pass any such resolution in respect of a member of a probation liaison committee who was appointed by the Secretary of State to the committee.

(5) In paragraph (4) above, “appointment” includes appointment by way of being co-opted.

### **Amendments**

8. The enactments and instruments mentioned in the Schedule to this Order shall have effect with the amendments there specified.

5th September 1985

*Douglas Hurd*  
One of Her Majesty's Principal Secretaries of State  
Home Office

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SCHEDULE 1

Article 8

AMENDMENTS

*The Children and Young Persons Act 1933*

1. After paragraph 8 of Schedule 2 to the Children and Young Persons Act 1933 there shall be inserted the following paragraph—

“8A. In paragraph 8 above, a reference to a county or part of a county includes a reference to an outer London area (within the meaning of section 2 of the Justices of the Peace Act 1979) or part of such an area.”.

*The Licensing Act 1964*

2. After section 2(2) of the Licensing Act 1964, there shall be inserted the following subsection—

“(2A) In paragraph (c) of subsection (2) above, the reference to the county justices acting for a petty sessions area includes a reference to the justices of a London commission area (within the meaning of section 2 of the Justices of the Peace Act 1979) who act for a petty sessions area in that area.”.

*The Justices of the Peace Act 1979*

3. In section 57 of the Justices of the Peace Act 1979, after subsection (1) there shall be inserted the following subsection—

“(1A) In section 55 of this Act a reference to the county justices is, in relation to the application of the section to an outer London borough, to be treated as a reference to the justices of the outer London area in which the borough is situated.”.

*The Petty Sessional Divisions (Review) Regulations 1952*

4. The Petty Sessional Divisions (Review) Regulations 1952 shall be amended as follows—

(a) In Regulation 2(1)(a), for the words “the County Council” there shall be substituted the words, “the non-metropolitan county council or, where the draft order or report is submitted by a committee for a metropolitan district or outer London borough, the clerk to the metropolitan district council or outer London borough council”;

(b) In Regulation 4(a), for the words “the county council” there shall be substituted the words, “the non-metropolitan county council or, where the order relates to a metropolitan district or outer London borough, the metropolitan district council or outer London borough council”;

(c) In Regulation 5(1), for the definition of “committee” there shall be substituted the following definition—

““committee” means a magistrates' courts committee established under section 19 of the Justices of the Peace Act 1979 acting for a non-metropolitan county, a metropolitan district or an outer London borough;”

*The Magistrates' Courts Committees (Constitution) Regulations 1973*

5. In Regulation 2(1) of the Magistrates' Courts Committees (Constitution) Regulations 1973, after the definition of “justice” there shall be inserted the following definition—

““metropolitan district” includes an outer London borough;”

*The Justices Allowances Regulations 1976*

6. In Regulation 2(2) of Schedule 2 to the Justices Allowances Regulations 1976(5), the words “the Greater London Council” shall be omitted.

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**EXPLANATORY NOTE**

This Order makes provision for transition to the new arrangements for the magistrates' courts service in outer London which are to apply on 1 April 1986 when the Greater London Council will cease to exist.

Under Articles 3 and 4, the justices of the peace who will act on and after 1 April 1986 for the new petty sessions areas are to make the arrangements, for which the justices would ordinarily be responsible, to enable the magistrates' courts service to function from that date. Article 5 makes provision for the associated expenditure.

By virtue of Article 6, the staff of the existing magistrates' courts committees (including justices' clerks) come within the jurisdiction of the staff commission established under the Local Government (Interim Provisions) Act 1984.

Article 7 suspends the elections and appointments of justices of the peace to various bodies already in existence which are due to take place in the autumn of 1985 (unless those who may vote at the election or make the appointments resolve that the election or appointments should proceed). The present officeholders and appointees will continue in place until 31 March 1986.

Article 8, with the Schedule to the Order, amends the statutes and statutory instruments included in the Schedule consequent on the passage of the Local Government Act 1985.