STATUTORY INSTRUMENTS

1979 No. 758 (L.7)

MAGISTRATES' COURTS

The Domestic Courts (Constitution) (Inner London) Rules 1979

Made - - - -	28*th June* 1979
Laid before Parliament	6*th July* 1979
Coming into Operation	27*th July* 1979

The Lord Chancellor, in exercise of the powers conferred on him by section 15 of the Justices of the Peace Act 1949(a), as extended by section 56A of the Magistrates' Courts Act 1952(b), after consultation with the Rule Committee appointed under the said section 15, hereby makes the following Rules:—

General

1. These Rules may be cited as the Domestic Courts (Constitution) (Inner London) Rules 1979 and shall come into operation on 27th July 1979.

2.—(1) In these Rules—

"the Act of 1964" means the Administration of Justice Act 1964(c);

"committee of magistrates" means the committee of magistrates set up in accordance with the provisions of section 13(1) of the Act of 1964;

"justice" means a justice of the peace who is not a stipendiary magistrate;

"panel" means domestic court panel;

"petty sessions area" means an inner London petty sessions area, within the meaning of section 11(5) of the Act of 1964;

"stipendiary magistrate" means a metropolitan stipendiary magistrate appointed under section 10(1)(d) of the Act of 1964.

(2) Any reference in these Rules to a justice for a petty sessions area shall be construed as a reference to a justice who ordinarily acts in and for that area.

Appointments and formation of panel

3.—(1) Subject to paragraph (7) below, the justices for each petty sessions area shall, at a meeting of which at least seven days notice shall be given to each justice for that area and which shall be held as soon as practicable after the meeting of the committee of magistrates referred to in rule 12(5) below, appoint, in accordance with the provisions of this rule, suitable justices to form a panel for that area for a term commencing on 1st November 1979 and expiring on 31st December 1982.

(2) Subject to paragraph (7) below, the justices for each petty sessions area shall, at their meeting held in October 1982 in accordance with rules made under section 13(6) of the Justices of the Peace Act 1949 for the purpose of

(a) 1949 c. 101. (b) 1952 c. 55; section 56A was inserted by the Domestic Proceedings and Magistrates' Courts Act 1978, c. 22; section 80. (c) 1964 c. 42.
(d) Section 10(1) was amended by the Administration of Justice Act 1973 (c. 15), sections 2(6) and 19(1) and Schedule 5.

electing a chairman of the justices, and thereafter at the said meeting in every third year, appoint, in accordance with the provisions of this rule, suitable justices to form a panel for that area for a term of three years commencing on 1st January in the following year.

(3) Nominations shall be permitted but where voting is necessary it shall be by secret ballot.

(4) Where a ballot under paragraph (3) above results in an equality of votes between any candidates and the addition of a vote would entitle one of them to be elected, the clerk to the justices shall forthwith decide between those candidates by lot.

(5) The number of justices appointed to the panel for a petty sessions area shall be such as the justices for that area at the time of appointment think sufficient for domestic courts in the area and the justices for that area may at any time appoint an additional member of the panel who shall serve thereon until the end of the period for which the other justices were appointed.

(6) The clerk to the justices for each petty sessions area shall, forthwith after any justices' meeting referred to in paragraphs (1) and (2) above, give notice to the Secretary of State confirming that a panel has been formed for the area.

(7) No panel shall be formed under paragraph (1) or (2) above for a petty sessions area which the committee of magistrates has determined, under section 11(4) of the Act of 1964, shall not hear any domestic proceedings.

Eligibility and removal

4.—(1) Justices to serve as members of a panel for a petty sessions area shall be appointed from amongst the justices for that area.

(2) A justice shall not be appointed to a panel unless he has indicated that he is willing to serve as a member of the panel.

5. A justice shall be eligible for appointment to a panel whether or not he—

(*a*) has been a member of that panel before, or

(*b*) is, or has been, a member of any other panel.

6. The Lord Chancellor may remove from a panel any justice who in his opinion is unsuitable to serve on a domestic court.

7. A stipendiary magistrate who has been nominated by the Lord Chancellor to hear domestic proceedings shall be a member of each panel and every such nomination shall be for a specified period and shall be revocable by the Lord Chancellor.

Vacancies in membership of panel

8.—(1) If a vacancy occurs amongst the justices who are members of a panel for a petty sessions area, the justices for that area shall as soon as practicable, unless they consider that it is not necessary, appoint such a justice as might have been appointed to the panel under rule 4 above.

(2) A justice appointed to a panel to fill a vacancy under paragraph (1) above shall serve thereon until the end of the period for which the other justices who are members of the panel were appointed.

Chairman and deputy chairman of panel

9.—(1) The justices who are members of a panel shall on the occasion of their appointment or as soon as practicable thereafter meet and elect from amongst their number by secret ballot a chairman and as many deputy chairmen as will ensure that each domestic court which does not include a stipendiary magistrate (whether sitting alone or as chairman) sits under the chairmanship of a person so elected in accordance with rule 11 below, and may at any subsequent time elect an additional deputy chairman.

(2) If a vacancy occurs in the chairmanship or deputy chairmanship, the justices who are members of the panel shall elect, by secret ballot, a chairman or, as the case may be, deputy chairman to hold office for the remainder of the period for which the other justices serve.

(3) Where a ballot under paragraph (1) or (2) above results in an equality of votes between any candidates and the addition of a vote would entitle one of them to be elected, the clerk to the justices shall forthwith decide between those candidates by lot.

Composition of domestic courts

10.—(1) Where justices are to sit in a domestic court they shall be chosen from the justices who are members of the panel in such manner as those justices determine, subject to any directions by the chief metropolitan stipendiary magistrate, so as to ensure that section 11(1) and (2) of the Act of 1964**(a)** (which makes provision for the composition of domestic courts in inner London) and rule 11 below can be complied with.

(2) The stipendiary magistrates who are to sit in a domestic court (whether alone or as chairman) shall be chosen from the stipendiary magistrates nominated by the Lord Chancellor under rule 7 above by the chief metropolitan stipendiary magistrate or in such manner as the chief metropolitan stipendiary magistrate determines.

11.—(1) Except as is provided by paragraph (2) below, a domestic court which does not include a stipendiary magistrate (whether sitting alone or as chairman) shall sit under the chairmanship of the chairman or a deputy chairman elected under rule 9 above.

(2) If at any sitting of a domestic court which does not include a stipendiary magistrate (whether sitting alone or as chairman) the chairman or deputy chairman is not available owing to circumstances unforeseen when the justices to sit were chosen under rule 10(1) above or he cannot properly sit as a member of the court, the members of that court shall, unless a stipendiary magistrate nominated by the Lord Chancellor under rule 7 above is available to act as chairman, choose one of their number to preside.

Combined panels

12.—(1) The committee of magistrates may make a direction for the formation or dissolution of a combined panel in respect of two or more petty sessions areas in the same commission area and any such direction shall—

(*a*) be notified forthwith to the justices for each petty sessions area specified in the direction; and

(*b*) take effect on 1st January in the year following the next meeting of the justices for each area to be held under rule 3(2) above:

(a) Section 11(1) was amended by the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22), section 89 and Schedule 2, paragraph 21.

Provided that a direction for the formation of a combined panel shall not be made under this paragraph in respect of a petty sessions area in which the committee of magistrates has determined under section 11(4) of the Act of 1964 that domestic proceedings shall not be heard.

(2) A direction made under paragraph (1) above shall state—

(*a*) the number of justices who are to serve as members of the combined panel, which shall be such as the committee of magistrates thinks sufficient for domestic courts in the petty sessions areas specified in the direction; and

(*b*) the number of justices to serve as members thereof who are to be provided by each area, such number, as nearly as may be, being the proportion which the number of justices for that area bears to the total number of justices for the petty sessions areas specified in the direction.

(3) A combined panel formed by a direction made under this rule shall be the panel for the petty sessions areas specified in the direction and, in relation to any such combined panel, these Rules shall have effect as if—

(*a*) in rule 3—

(i) references to appointments to a panel were references to appointments to the combined panel of such number of justices from the petty sessions area as is specified in the direction; and

(ii) paragraph (5) thereof were omitted;

(*b*) for paragraph (1) of rule 4 there were substituted the following paragraph:—

"(1) Justices provided by each petty sessions area for which a combined panel is formed shall be appointed from amongst the justices for that area.";

(*c*) for paragraph (1) of rule 8 there were substituted the following paragraph:—

"(1) If a vacancy occurs in the number of justices forming a combined panel, justices for the appropriate petty sessions area shall, as soon as practicable, appoint such a justice as might have been appointed to the panel under rule 4 above.".

(4) The number of justices specified under paragraph (2)(*a*) above may at any time be increased by a further direction of the committee of magistrates which shall take effect forthwith.

(5) The committee of magistrates shall, at a meeting of the committee which shall be held as soon as practicable after the coming into operation of these Rules, consider whether or not it is desirable to form a combined panel or panels forthwith and if so, shall at that meeting make a direction or directions under paragraph (1) above for that purpose; and any direction made in pursuance of this paragraph shall, notwithstanding sub-paragraph (*b*) of that paragraph, take effect on 1st November 1979.

Dated 28th June 1979.

Hailsham of St. Marylebone, C.

EXPLANATORY NOTE

(This Note is not part of the Rules.)

Section 80 of the Domestic Proceedings and Magistrates' Courts Act 1978 (which comes into force on 1st November 1979**(a)**) inserts in the Magistrates' Courts Act 1952 a new section 56A containing provisions relating to domestic courts and, in particular, requiring members of a domestic court to be drawn from a panel of justices specially appointed to deal with domestic proceedings. These Rules contain provisions for setting up domestic court panels for this purpose in the inner London boroughs and the City of London and for the composition and appointment of chairmen of domestic courts in those areas.

(a) S.I. 1979/731.

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