STATUTORY INSTRUMENTS

1978 No. 1163 (L. 27)

MAGISTRATES' COURTS

PROCEDURE

The Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1978

Made - - - -	3*rd August* 1978
Laid before Parliament	14*th August* 1978
Coming into Operation	1*st October* 1978

The Lord Chancellor, in exercise of the powers conferred on him by section 13 of the Justices of the Peace Act 1949(**a**), as modified by section 33 of the Administration of Justice Act 1964(**b**) and as amended by section 3 of the Justices of the Peace Act 1968(**c**) and by section 21 of the Administration of Justice Act 1977(**d**), after consultation with the Rule Committee appointed under section 15 of the said Act of 1949, hereby makes the following Rules:—

1. These Rules may be cited as the Justices of the Peace (Size and Chairmanship of Bench) (Amendment) Rules 1978 and shall come into operation on 1st October 1978.

2. Rule 4 of the Justices of the Peace (Size and Chairmanship of Bench) Rules 1964(**e**), as amended(**f**), shall be amended—

(*a*) in paragraph (2), by omitting the words "(hereinafter referred to as the "election meeting")" and by inserting after the word "meeting" where it first appears the words "(hereinafter referred to as an "election meeting")";

(*b*) in paragraph (2A), by substituting for the words "at the first election meeting held after" the words "at any election meeting held within 12 months of" and by substituting for the words "after the removal" the words "of the removal";

(*c*) by substituting for paragraph (5) the following paragraph—

"(5) Subject to paragraph (4) and to any directions given by the chairman for the time being as to which is to be followed, one or other of the following procedures shall be adopted—

(*a*) the Clerk to the Justices shall prepare ballot papers containing the names in alphabetical order of all the justices in the petty sessions area and shall hand to each justice present at the election meeting one list for the election of the chairman and one list for the election of the deputy chairman or deputy chairmen, and each justice shall place a mark on one list against the name of the justice he wishes to be chairman

(**a**) 1949 c. 101. (**b**) 1964 c. 42. (**c**) 1968 c. 69.
(**d**) 1977 c. 38. (**e**) S.I. 1964/1107. (**f**) S.I. 1969/1272.

and on the other list against the name or names of the justice or justices he wishes to be deputy chairman or deputy chairmen (as the case may be); or

(*b*) the Clerk to the Justices shall—

(i) prepare a list containing the names in alphabetical order of all the justices in the petty sessions area, a copy of which shall be sent by him to each such justice along with the notice of the election meeting and a copy of which shall be displayed at the election meeting,

(ii) prepare two sets of ballot papers containing respectively the words "Chairman", and "Deputy Chairman" or "Deputy Chairmen" (as the circumstances require),

(iii) hand to each justice present at the election meeting one of each set of ballot papers on which each justice who votes shall write the name of the justice he wishes to be chairman and the name or names of the justice or justices he wishes to be deputy chairman or deputy chairmen (as the case may be), opposite the appropriate words.";

(*d*) in paragraph (6), by inserting after the words "Clerk to the Justices" where they first appear the words "assisted if need be by members of his staff";

(*e*) in paragraph (9), by substituting for the word "shall" where it first appears the words "shall either (*a*)" and by inserting after the words "deputy chairman," the words "or (*b*) prepare ballot papers containing the words "deputy chairman—second ballot";

(*f*) by substituting for paragraph (10) the following paragraph—

"(10) Where the procedure adopted is that mentioned in sub-paragraph (*a*) of paragraph (5) and where a ballot paper is unmarked or it is marked in such a manner that there is doubt as to the identity of the justice for whom the vote is cast, the ballot paper or the vote (as the case may be) shall be rejected when the votes are counted; and where the procedure adopted is that mentioned in sub-paragraph (*b*) of paragraph (5) and there is doubt as to the identity of the justice for whom a vote is cast such vote shall be rejected when the votes are counted";

(*g*) by inserting the following paragraph after paragraph (14)—

"(15) Before a chairman or deputy chairman of the justices for a petty sessions area who is present at a meeting of those justices requests another justice to preside under the provisions of section 13(3) of the Justices of the Peace Act 1949, as amended by section 21 of the Administration of Justice Act 1977, he shall satisfy himself as to the suitability of that justice for this purpose.".

Dated 3rd August 1978.

Elwyn-Jones, C.

EXPLANATORY NOTE

(*This Note is not part of the Rules.*)

These Rules amend Rule 4 of the Justices of the Peace (Size and Chairmanship of Bench) Rules 1964 and in particular—

(*a*) provide an alternative ballot procedure for use at meetings held to elect a chairman or one or more deputy chairmen of the justices for a petty sessions area (Rule 2(*c*) to (*f*));

(*b*) provide that a justice may not vote at such an election meeting within 12 months of his appointment (Rule 2(*b*));

(*c*) provide that before a chairman or deputy chairman of the justices for a petty sessions area who is present at a meeting of those justices requests another justice to preside under section 13(3) of the Justices of the Peace Act 1949, as amended by section 21 of the Administration of Justice Act 1977, he shall satisfy himself as to the suitability of that justice for this purpose (Rule 2(*g*)).

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