STATUTORY INSTRUMENTS

1999 No. 523

MAGISTRATES' COURT

The Magistrates' Courts Committees (Hampshire and Isle of Wight) Amalgamation Order 1999

Made - - - -	*28th February 1999*
Laid before Parliament	*3rd March 1999*
Coming into force	
for the purposes of articles 2 and 4	*1st April 2000*
for all other purposes	*1st April 1999*

Whereas the magistrates' courts committees for the retained counties**(a)** of Hampshire and the Isle of Wight have submitted proposals to the Lord Chancellor under section 32(1) of the Justices of the Peace Act 1997**(b)** for the amalgamation of the magistrates' courts committees for those retained counties:

And whereas the provisions of section 32(2) of that Act have been complied with:

Now, therefore, the Lord Chancellor, in exercise of the powers conferred on him by section 32(3) and (8) of that Act, hereby makes the following Order:

1. This Order may be cited as the Magistrates' Courts Committees (Hampshire and Isle of Wight) Amalgamation Order 1999 and shall come into force for the purposes of articles 2 and 4 on 1st April 2000 and for all other purposes on 1st April 1999.

2. The magistrates' courts committees for the retained counties of Hampshire and the Isle of Wight shall be abolished.

3. There shall be constituted as a body corporate a new magistrates' courts committee which shall be known as the Hampshire and Isle of Wight magistrates' courts committee.

(a) "retained county" is defined by section 72(1) of the Justices of the Peace Act 1997 (c. 25) in relation to England as the area of a non-metropolitan county created by Part I of the Local Government Act 1972 (c. 70), as it stood immediately before 1st April 1995.

(b) 1997 c. 25.

4. The area of the Hampshire and Isle of Wight magistrates' courts committee shall consist of the counties of Hampshire and the Isle of Wight and the cities of Southampton and Portsmouth.

5. The transitional and consequential provisions set out in the Schedule to this Order shall have effect in connection with the provisions of articles 2 and 3 of this Order.

Signed by authority of the Lord Chancellor

G.W. Hoon

Dated 28th February 1999 Minister of State, Lord Chancellor's Department

SCHEDULE

Article 5

TRANSITIONAL AND CONSEQUENTIAL PROVISIONS

Interpretation

1. In this Schedule–

"the 1997 Act" means the Justices of the Peace Act 1997;

"the Constitution Regulations" means the Magistrates' Courts Committees (Constitution) Regulations 1994**(a)**;

"the first appointed day" means 1st April 1999 or such earlier day as the transferor committees shall appoint for the establishment of the selection panel;

"the second appointed day" means 1st June 1999 or such earlier day as the transferor committees shall appoint for the establishment of the transferee committee;

"the amalgamation date" means 1st April 2000;

"the transferor committees" means the magistrates' courts committees abolished by article 2;

"the transferee committee" means the magistrates' courts committee constituted by article 3;

"bench" means the justices assigned to a petty sessions area;

"interested authority", in relation to this Order, has the meaning given by section 32(10) of the 1997 Act;

a reference to a justice for a committee area means a justice who ordinarily acts or will act in and for a petty sessions area comprised or formerly comprised in that committee area;

all other words and phrases have the same meanings as in the Constitution Regulations.

The selection panels for the transferor committees

2. The members of the selection panels for the committee areas of the transferor committees appointed for the calendar year 1999 shall continue to hold office until 31st March 2000 and accordingly regulation 5(8) of the Constitution Regulations shall not apply.

The clerk designate

3.—(1) As soon as reasonably practicable after the coming into force of this Order, and in any event not later than the day before the first appointed day, the transferor committees shall appoint a clerk designate in respect of the committee area of the transferee committee.

(2) The clerk designate shall hold office until such time as the transferee committee shall appoint a person to be the justices' chief executive for their area, and upon such appointment the office of clerk designate shall cease to exist.

The selection panel for the transferee committee

4.—(1) The justices for the committee areas of the transferor committees shall establish a selection panel for the committee area of the transferee committee and appoint the first members of that panel in accordance with the following sub-paragraphs.

(2) The selection panel shall come into existence on the first appointed day, and the first members of the selection panel shall be appointed for a period beginning on the first appointed day and ending on 31st December 2000.

(3) The transferor committees shall by the day before the first appointed day appoint a clerk to the selection panel (who may be the clerk designate), and the clerk to the selection panel shall act as such from the first appointed day until such time as the transferee committee shall appoint a person to be the justices' chief executive for their area.

(4) For the purposes of the appointment of the first members of the selection panel, the names of the representative from each bench shall be notified to the clerk to the selection panel by the day before the first appointed day, and regulation 5(9) of the Constitution Regulations shall not apply.

(a) S.I. 1994/2811.

(5) Except as provided in the preceding sub-paragraphs, regulation 5 of the Constitution Regulations shall apply in relation to the appointment of the first members of the selection panel.

(6) The members of the selection panel for all periods after 31st December 2000 shall be appointed in accordance with regulation 5 of the Constitution Regulations.

(7) The selection panel shall not until the amalgamation date constitute a panel for the purposes of paragraph 8 of Schedule 2 to the Police Act 1996**(a)**.

Selection of transferee committee

5.—(1) As soon as reasonably practicable after the first appointed day, and in any event not later than the second appointed day, the selection panel shall select the first members of the transferee committee, who shall take office on the second appointed day.

(2) The transferor committees shall, by the day before the first appointed day, inform the clerk to the selection panel of the number of persons which, subject to regulation 11 of the Constitution Regulations, they wish to be selected as the first members of the transferee committee.

(3) In selecting the first members of the transferee committee the selection panel shall, in accordance with the number of vacancies notified under paragraph (2) above, appoint those members to take office in the numbers and for the terms specified opposite that number in the Table following this paragraph.

(4) Provided that sufficient suitable candidates present themselves, the first members of the transferee committee shall include justices for the committee areas of the transferor committees, as follows:–

(a) one justice for the Hampshire committee area, who shall hold office until 31st March 2002;

(b) one justice for the Hampshire committee area, who shall hold office until 31st March 2003;

(c) one justice for the Isle of Wight committee area, who shall hold office until 31st March 2002;

(d) one justice for the Isle of Wight committee area, who shall hold office until 31st March 2003.

(5) Subject to paragraph 4 above and to the preceding sub-paragraphs of this paragraph, the Constitution Regulations shall apply to the transferee committee except that–

(a) regulations 2(2), 2(3), 3, 6(3)(a), 14(3) and 14(4) and Schedules 2 and 3 shall not apply;

(b) paragraphs (2), (3) and (7) of regulation 6 shall not apply in relation to the selection of the first members of the transferee committee;

(c) regulation 7 shall apply to the selection of the first members of the transferee committee as if for the reference to 31st December there were substituted to the day before the first appointed day;

(d) any period served on a transferor committee or the transferee committee, or as chairman of any such committee, prior to the amalgamation date shall not count towards the maximum periods of service permitted by regulations 8 and 10;

(e) regulations 15 and 16 shall not apply before the amalgamation date;

(f) references in any regulation to any other regulation shall be read as references to that other regulation as modified by paragraphs (a) to (e) above.

(a) 1996 c. 16. Paragraphs 7 and 8 of Schedule 2 provide for appointment of magistrate members of police authorities established under section 3 of that Act.

TABLE

Number of vacancies notified	*Number of members to hold office till 31st March 2001*	*Number of members to hold office till 31st March 2002*	*Number of members to hold office till 31st March 2003*
3	1	1	1
4	1	1	2
5	2	2	1
6	2	2	2
7	2	2	3
8	3	3	2
9	3	3	3
10	3	3	4
11	4	4	3
12	4	4	4

Functions of transferee committee

6.—(1) The transferee committee shall come into existence as a body corporate on the second appointed day.

(2) The first chairman of the transferee committee shall be appointed at the first meeting after the second appointed day, and shall hold office until the first meeting after 1st April 2001; accordingly, regulation 10(2) of the Constitution Regulations shall not apply in relation to the first meeting after 1st April 2000.

(3) The clerk designate for the time being shall act as clerk to the transferee committee from the second appointed day until such time as the transferee committee shall appoint a person to be the justices' chief executive for their area.

(4) From the second appointed day until the amalgamation date the transferee committee shall be a shadow committee and shall only have the following functions and powers–

(a) to commence and sustain the running of the committee as a shadow committee;

(b) to make all necessary preparations for the assumption of its functions as a magistrates' courts committee on the amalgamation date;

(c) to prepare any budgets or plans required by it when those functions are assumed and to consult with the paying authorities in relation to them;

(d) to prepare and submit capital bids in respect of expenditure to be incurred after the amalgamation date;

(e) to make determinations under section 56(1) of the 1997 Act in relation to the period following the amalgamation date;

(f) to enter into contracts;

(g) to consult and negotiate with persons who will, after the amalgamation date, be employed by the transferee committee and with trade unions and other organisations representing such persons;

(h) to appoint staff;

(i) to co-opt members in accordance with section 28(2)(a) of the 1997 Act;

(j) to act through sub-committees appointed by it as described in section 30(4) of the 1997 Act;

(k) to arrange for the discharge of any of its functions as described in section 30(5) of the 1997 Act.

(5) From the second appointed day until the amalgamation date the interested authorities, as prospective paying authorities for the transferee committee, shall have power to make any arrangement under section 55(9) of the 1997 Act and any agreement under section 56(2) of that Act in relation to the period following the amalgamation date, notwithstanding that the transferee committee is not yet the magistrates' courts committee for the area comprising those districts, and the Lord Chancellor shall have power to make determinations under section 56(2) in default of such agreement.

(6) The transferor committees shall give the transferee committee such information and assistance as is reasonably required to enable it to carry out its functions under this paragraph.

(7) On the amalgamation date, the transferee committee shall assume all the functions and powers of a magistrates' courts committee.

Appointment of justices' chief executive

7.—(1) As soon as reasonably practicable after the second appointed day, and in any case before the amalgamation date, the transferee committee shall appoint a person to be the justices' chief executive of their area.

(2) From and after the second appointed day–

(a) any application under section 40(2)(a) of the 1997 Act made before the second appointed day by a transferor committee shall be treated as an application by the transferee committee;

(b) any approval under section 40(2)(b) of the 1997 Act granted before the second appointed day to a transferor committee shall be treated as an approval granted to the transferee committee.

(3) From the time of his appointment until the amalgamation date, the person appointed to be the justices' chief executive shall only have the following functions and powers:–

(a) to act as clerk to the transferee committee and the selection panel;

(b) to assist the transferee committee in all its functions and powers as set out in paragraph 6(4);

(c) to make all necessary preparations for the assumption of his functions as justices' chief executive for the area of the transferee committee on the amalgamation date.

(4) On the amalgamation date, the person appointed shall assume all the functions and powers of the justices' chief executive for the area of the transferee committee.

Transfer of staff

8.—(1) Any person employed by a transferor committee on the day before the amalgamation date shall be transferred on the amalgamation date to the employment of the transferee committee on the same terms as those on which he was employed by the transferor committee.

(2) A justices' clerk holding office at the pleasure of a transferor committee on the day before the amalgamation date shall on and after the amalgamation date hold office at the pleasure of the transferee committee.

Transfer of property

9. Any real or personal property in the ownership of the transferor committees immediately before the amalgamation date shall, on the amalgamation date, vest in the transferee committee.

Continuity of matters

10.—(1) Anything which, before the amalgamation date, is in the process of being done by, to or in relation to a transferor committee in the exercise of, or in connection with its functions and powers as a magistrates' courts committee may be continued by, to or in relation to the transferee committee, including any legal action or proceedings being taken by or against the transferor committee.

(2) All contractual and other rights and liabilities of a transferor committee and the benefit of any insurance policy in the name of a transferor committee shall pass on the amalgamation date to the transferee committee.

References in enactments

11. Any reference in any enactment to a transferor committee shall, as from the amalgamation date, be construed as a reference to the transferee committee.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the replacement of the magistrates' courts committees for Hampshire and the Isle of Wight by a single committee to be known as the Hampshire and Isle of Wight magistrates' courts committee.

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The Magistrates' Courts Committees (Hampshire and Isle of Wight) Amalgamation Order 1999

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