STATUTORY INSTRUMENTS

1978 No. 671

MAGISTRATES' COURTS

The Petty Sessional Divisions (Derbyshire) Order 1978

Made - - - - 4th May 1978

Coming into operation in accordance with Article 1

Whereas the magistrates' courts committee for the county of Derbyshire has, in pursuance of subsection (1) of section 18 of the Justices of the Peace Act 1949(a), as amended by paragraph 6 of Schedule 27 to the Local Government Act 1972(b), submitted to the Secretary of State a draft order making provision about the division of part of the said county into petty sessional divisions:

And whereas by subsections (3)(*a*) and (4)(*a*) of the said section it is provided that the Secretary of State may by statutory instrument make the Order either in the terms of the said draft or with such modifications as he thinks fit and that the said Order may contain transitional and other consequential provisions:

And whereas the provisions of subsections (5), (6) and (7) of the said section have been complied with:

Now, therefore, in exercise of the powers conferred upon me by subsections (3) and (4) of the said section 18, I hereby make the following Order: —

1. This Order may be cited as the Petty Sessional Divisions (Derbyshire) Order 1978 and shall come into operation on 1st July 1978, except that for the purposes of paragraph 2 of Schedule 3 thereto this Order shall come into operation forthwith.

2.—(1) In this Order, except where the context otherwise requires, the expression "division" means petty sessional division and any reference to a justice for a division shall be construed as a reference to a justice of the peace who ordinarily acts, or, as the case may be, will on or after 1st July 1978, ordinarily act, in and for that division.

(2) The Interpretation Act 1889(c) shall apply to the interpretation of this Order as it applies to the interpretation of an Act of Parliament.

3.—(1) The divisions of Alfreton, Ashbourne, Bakewell, Belper, Derby, Derby County and Appletree, Matlock and South Derbyshire shall be abolished and—

(*a*) from the areas comprised in the divisions of Ashbourne, Bakewell and Matlock less the parishes of Dethick Lea and Holloway and Idridgehay and Alton, together with the parish of Bradwell (which is transferred from the division of High Peak by paragraph (2) below) and the parishes of Alkmonton, Boyleston, Cubley, Doveridge, Hungry

(a) 1949 c. 101. (b) 1972 c. 70. (c) 1889 c. 63.

Bentley, Marston Montgomery, Norbury and Roston, Somersal Herbert and Sudbury, there shall be constituted a new division to be known as the West Derbyshire division;

(*b*) from the areas comprised in the divisions of Derby, Derby County and Appletree and South Derbyshire less the parishes of Breadsall, Draycott and Church Wilne, Hopwell, Little Eaton and Ockbrook (which are transferred to the division of Ilkeston by paragraph (3) below) and the parishes of Alkmonton, Boylestone, Cubley, Doveridge, Hungry Bentley, Kedleston, Kirk Langley, Mackworth, Marston Montgomery, Norbury and Roston, Quarndon, Ravensdale Park, Somersal Herbert, Sudbury and Weston Underwood, there shall be constituted a new division to be known as the Derby and South Derbyshire division;

(*c*) from the areas comprised in the divisions of Alfreton and Belper, less the parishes of Ashover, Blackwell, Brackenfield, Clay Cross, Morton, Pilsey, Shirland and Higham, Stretton, Tibshelf and Wessington (which are transferred to the division of Chesterfield by paragraph (3) below) together with the parishes of Dethick Lea and Holloway, Idridgehay and Alton, Kedleston, Kirk Langley, Mackworth, Quarndon, Ravensdale Park and Weston Underwood there shall be constituted a new division to be known as the Alfreton and Belper division.

(2) The parish of Bradwell shall cease to form part of the division of High Peak and shall form part of the new division of West Derbyshire constituted by paragraph (1)(*a*) above.

(3) The parishes specified in column (1) of Schedule 1 to this Order shall be transferred to and form part of the division specified opposite to each of those parishes in column (2) of the said Schedule.

(4) The divisions specified in column (1) of Schedule 2 to this Order shall, in consequence of the provisions of the foregoing paragraphs of this Article, comprise the areas specified opposite to those divisions in column (2) of the said Schedule.

4. The transitional and other consequential provisions set out in Schedule 3 to this Order shall have effect in connection with the provisions of Article 3 of this Order.

Merlyn Rees,

One of Her Majesty's Principal Secretaries of State.

Home Office.
4th May 1978.

SCHEDULE 1

Article 3(3).

(1) Transferred parish	(2) Division to which parish is transferred
Breadsall Draycott and Church Wilne Hopwell Little Eaton Ockbrook	Ilkeston
Ashover Blackwell Brackenfield Clay Cross Morton Pilsley Shirland and Higham Stretton Tibshelf Wessington	Chesterfield

SCHEDULE 2

Article 3(4).

(1) Division	(2) Area comprised therein
Alfreton and Belper	The former urban district of Alfreton as it existed on 31st March 1974. The parishes of— Alderwasley Ashleyhay Belper Crich Dethick Lea and Holloway Duffield Hazelwood Holbrook Idridgehay and Alton Kedleston Kilburn Kirk Langley Mackworth Pinxton Quarndon Ravensdale Park Shottle and Postern South Normanton South Wingfield Turnditch Weston Underwood Windley
Chesterfield	The borough of Chesterfield The district of North East Derbyshire That partof the district of Bolsover comprising the parishes of— Ault Hucknall Barlborough Blackwell Clowne Elmton Glapwell Old Bolsover Pleasley Scarcliff Shirebrook Tibshelf Whitwell

(1) Division	(2) Area comprised therein
Derby and South Derbyshire	The City of Derby The district of South Derbyshire
Glossop	The former non-county borough of Glossop as it existed on 31st March 1974. The parishes of— Charlesworth Chisworth Tintwistle
High Peak	The former non-county borough of Buxton as it existed on 31st March 1974. The parishes of:— Aston Bamford Borough and Shatton Castleton Chapel en le Frith Chinley, Buxworth and Brownside Derwent Edale Green Fairfield Hartington Upper Quarter Hayfield Hope Hope Woodlands King Sterndale New Mills Peak Forest Thornhill Whaley Bridge Wormhill
Ilkeston	The borough of Erewash The former urban district of Heanor as it existed on 31st March 1974. That part of the district of Amber Valley comprising the parishes of— Denby Horsley Horsley Woodhouse Mapperly Pentrich Ripley Shipley Smalley
West Derbyshire	The district of West Derbyshire

Article 4.

SCHEDULE 3

TRANSITIONAL AND OTHER CONSEQUENTIAL PROVISIONS

PART I

INTERPRETATION

1. In this Schedule—

"abolished division" means a division abolished by Article 3(1) of this Order;

"new division" means a division constituted by Article 3 of this Order;

"respective new division" in relation to an abolished division means the new division specified opposite to that abolished division in column (2) of the Appendix to this Schedule;

"probation order" means a probation order made or having effect as if made under section 2 of the Powers of Criminal Courts Act 1973(a);

"community service order" means an order made under section 14 of the Powers of Criminal Courts Act 1973;

"supervision order" means any of the following orders, that is to say—

(*a*) a supervision order within the meaning of section 11 of the Children and Young Persons Act 1969(b) or to which paragraph 12 of Schedule 4 to that Act applies;

(*b*) an order under section 2(1)(*f*) of the Matrimonial Proceedings (Magistrates' Courts) Act 1960(c);

(*c*) an order under section 2(2)(*a*) of the Guardianship Act 1973(d);

(*d*) a supervision order within the meaning of section 26 of the Powers of Criminal Courts Act 1973;

(*e*) an order under section 17(1)(*a*) or section 36(3)(*b*) of the Children Act 1975(e).

PART II

PROVISIONS CONSEQUENTIAL ON CONSTITUTION OF NEW DIVISIONS BY ARTICLE 3(1)

2.—(1) The justices for the new divisions shall appoint, in the prescribed manner, so far as may be applicable, and for the prescribed term, to take office on 1st July 1978—

(*a*) a chairman and one or more deputy chairmen;

(*b*) a juvenile court panel;

(*c*) one or more case committees;

(*d*) a justice or justices to serve as a member or members of the magistrates' courts committee for the county of Derbyshire;

(*e*) a divisional licensing committee;

(*f*) a betting licensing committee.

(2) In the foregoing sub-paragraph, the expressions "the prescribed manner" and "the prescribed term" mean, respectively—

(*a*) in relation to the election of a chairman or deputy chairmen, the manner prescribed by rules made under section 13 of the Justices of the Peace Act 1949 and a term ending at the expiration of the month of December 1978;

(*b*) in relation to the appointment of a juvenile court panel, the manner prescribed by rules made under section 15 of that Act, and a term ending at the expiration of the month of October 1979;

(*c*) in relation to the appointment of a case committee, the manner prescribed by rules made or having effect as if made under Schedule 3 to the Powers of Criminal Courts Act 1973 and a term ending at the expiration of the month of December 1978;

(*d*) in relation to the appointment of a member of the magistrates' courts committee, the manner prescribed by regulations made under Schedule 4

(a) 1973 c. 62. (b) 1969 c. 54. (c) 1960 c. 48.
(d) 1973 c. 29. (e) 1975 c. 72.

to the Justices of the Peace Act 1949 and a term ending at the expiration of the month of November 1978;

(*e*) in relation to the appointment of the divisional licensing committee, the manner prescribed by Part I of Schedule 1 to the Licensing Act 1964(**a**), and a term ending at the expiration of the month of December 1978;

(*f*) in relation to the appointment of the betting licensing committee, the manner prescribed by the Betting (Licensing) Regulations 1960(**b**) and a term ending at the expiration of the month of December 1978.

(3) In relation to the appointment of a justices, clerk for a new division, any consultation with the justices for that division required by section 19(9) of the Justices of the Peace Act 1949 may take place before 1st July 1978.

3. Subject to Part IV of this Schedule, any process issued, order made, sentence passed, appeal brought, case stated, licence granted, recognizance entered into, proceeding begun, appointment made or other thing done before 1st July 1978 by, from, to or before any justices for an abolished division or their clerk shall, on and after that date, be deemed to have been issued, made, passed, brought, stated, granted, entered into, begun or done by, from, to or before those justices as justices for the respective new division or their clerk as the case may be.

4. Any order made by a magistrates' court directing the payment of money to the clerk or any other officer of a magistrates' court acting for an abolished division shall have effect as if it had directed payment to be made to the clerk to the justices for the respective new division.

5.—(1) Any process, records or other documents in the custody, by virtue of his office as such, of the clerk to the justices for an abolished division shall be retained by that clerk in his capacity as clerk to the justices for the respective new division or, if he does not hold that clerkship, be transferred to the custody of the clerk to the justices for the new division.

(2) Copies of, and extracts from any such record or other document as aforesaid made or certified by the clerk to the justices for the respective new division shall be of the same effect as if they had been made or certified by the clerk to the justices for the abolished division.

6. Where an abolished division is named in a community service order, probation order, or a supervision order, the powers and functions of the justices for that division in relation to the order shall vest in and be discharged by the justices for the respective new division and the order, unless amended in regard to the division named, shall have effect in all respects as if the new division were named therein.

PART III

PROVISIONS CONSEQUENTIAL ON TRANSFER OF PARISHES BY ARTICLE 3(2) AND (3)

7.—(1) The transfer of a parish by Article 3(2) and (3) of this Order shall not affect any proceedings commenced before 1st July 1978 before the justices for an abolished division and any such proceedings may be disposed of—

(**a**) 1964 c. 26.

(**b**) S.I. 1960/1701.

(*a*) in the case of a parish transferred to the division of Ilkeston, as if the parish formed part of the new division of Derby and South Derbyshire; or

(*b*) in the case of a parish transferred to the division of Chesterfield, as if the parish formed part of the new division of Alfreton and Belper.

(2) The transfer of the parish of Bradwell by Article 3(2) of this Order shall not affect any proceedings commenced before 1st July 1978 before the justices for the High Peak division who may dispose of any such proceedings as if the parish of Bradwell continued to form part of the High Peak division.

8. Where in consequence of the transfer of a parish under Article 3 (2) and (3) of this Order periodical payments under section 52 of the Magistrates' Courts Act 1952(**a**) are on 1st July 1978 payable to a person through the clerk to the justices for a petty sessional division in which that person no longer resides, the clerk may amend the order so as to require the payments to be made through the clerk to the justices for the division in which that person is residing and, if the clerk does so amend the order, he shall give notice of the amendment to the person entitled to the payments, to the person required to make the payments and to the justices' clerk through whom the payments are to be made.

9. Where on 1st July 1978 a community service order, probation order or supervision order is in force and the offender, probationer or the person under supervision is residing in a parish transferred by Article 3(2) and (3) of this Order the justices for the petty sessional division named in the order may amend the order in regard to the division named as if the offender, probationer or person under supervision, as the case may be, had changed his residence.

PART IV

PROVISIONS RELATING TO LICENSING DISTRICTS ETC.

10.—(1) Any order made, licence granted or other thing done under the Licensing Act 1964 by the licensing justices for an abolished division or, in respect of premises situated in the parish of Bradwell, for the High Peak division, being an order or licence in force or other thing having effect immediately before 1st July 1978, shall continue to have like effect on and after that date as if this Order had not been made but shall be treated as if it had been made, granted or done by the licensing justices for the division in which the premises concerned are then situated.

(2) Anything done under the Betting, Gaming and Lotteries Act 1963(**b**) or the Gaming Act, 1968(**c**) by or in relation to the betting licensing committee for an abolished division or, in respect of premises situated in the parish of Bradwell, for the High Peak division, being a thing having effect immediately before 1st July 1978, shall continue to have like effect on and after that date as if this Order had not been made but shall be treated as if it had been done by or in relation to the betting licensing committee for the division in which the premises concerned are than situated; and anything done under either of those Acts by or in relation to any other person or body shall have effect accordingly.

(**a**) 1952 c. 55. (**b**) 1963 c. 2. (**c**) 1968 c. 65.

Paragraph 1. APPENDIX TO SCHEDULE 3

(1) Abolished division	(2) Respective new division
Ashbourne Bakewell Matlock	West Derbyshire
Derby Derby County and Appletree South Derbyshire	Derby and South Derbyshire
Alfreton Belper	Alfreton and Belper

EXPLANATORY NOTE

(This Note is not part of the Order.)

This Order gives effect to a draft Order submitted by the magistrates' courts committee for the county of Derbyshire and provides for the reorganisation of petty sessional divisions in respect of the areas comprised in the existing divisions of Alfreton, Ashbourne, Bakewell, Belper, Derby, Derby County and Appletree, Matlock and South Derbyshire.

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