STATUTORY INSTRUMENTS

1980 No. 213

MAGISTRATES' COURTS

The Petty Sessional Divisions (Gloucestershire) Order 1980

Made - - - - 19th February 1980

Coming into operation in accordance with Article 1

Whereas the magistrates' courts committee for the county of Gloucestershire has, in pursuance of subsection (1) of section 18 of the Justices of the Peace Act 1949(a), 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 (Gloucestershire) Order 1980 and shall come into operation on 1st March 1980, except that for the purposes of paragraph 2 of the Schedule thereto this Order shall come into operation forthwith.

2. 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 March 1980 ordinarily act, in and for that division.

3.—(1) The divisions of Berkeley and Dursley shall be combined to form a new division which shall be known as the Berkeley and Dursley division.

(2) The divisions of Gloucester (City) and Gloucester County shall be combined to form a new division which shall be known as the Gloucester division.

(3) The parish of Randwick shall cease to form part of the division of Whitminster and shall be transferred to, and form part of, the division of Stroud.

(a) 1949 c. 101; section 18(1) was amended by the Local Government Act 1972 (c. 70), Schedule 27, paragraph 6.

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

W. S. I. Whitelaw,
One of Her Majesty's Principal Secretaries of State.

Home Office.
19th February 1980.

SCHEDULE Article 4.

TRANSITIONAL AND OTHER CONSEQUENTIAL PROVISIONS

PART I

INTERPRETATION

1. In this Schedule—

"existing division" means a division combined by Article 3 of this Order;

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

"respective new division" means in the case of the existing Berkeley division or Dursley division the new Berkeley and Dursley division and in the case of the existing Gloucester (City) division or Gloucester County division the new Gloucester division;

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

"probation order" means a probation order made or having effect as if made under section 2 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) AND (2)

2.—(1) The justices for a new division shall appoint, in the prescribed manner, so far as may be applicable, and for the prescribed term, to take office on 1st March 1980—

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

(*b*) a juvenile court panel;

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

(*c*) one or more case committees;

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

(*e*) a divisional licensing committee;

(*f*) a betting licensing committee;

(*g*) a domestic court panel.

(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 chairman, 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 1980;

(*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 December 1982;

(*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 1980;

(*d*) in relation to the appointment of a member of the magistrates' courts committee, the manner prescribed by regulations made under Schedule 4 to the Justices of the Peace Act 1949 and a term ending at the expiration of the month of November 1980;

(*e*) in relation to the appointment of the divisional licensing committee, the manner prescribed in Part I of Schedule 1 to the Licensing Act 1964(**a**) and a term ending at the expiration of the month of December 1980;

(*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 1980;

(*g*) in relation to the appointment of a domestic court panel, the manner prescribed by rules made under section 15 of the Justices of the Peace Act 1949(**c**) and a term ending at the expiration of the month of December 1982.

(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 March 1980.

3. The permitted hours under Part III of the Licensing Act 1964 in force immediately before 1st March 1980 in an existing division shall continue in force until the coming into operation of an order under the said Part III, fixing permitted hours, made in the year 1981 at the general annual licensing meeting of the justices for the respective new division.

(**a**) 1964 c. 26. (**b**) S.I. 1960/1701.

(**c**) Section 15 was extended by section 56A of the Magistrates' Courts Act 1952 (c. 55) (inserted by section 80 of the Domestic Proceedings and Magistrates' Courts Act 1978 (c. 22)).

4. Anything required by virtue of the foregoing provisions of this Schedule to be done on or after 1st March 1980 by, or in relation to, the clerk to the justices for an existing division shall be done by, or in relation to, the clerk to the justices for the respective new division.

5. Subject to the foregoing provisions of this Schedule, any process issued, order made, sentence passed, appeal brought, case stated, licence granted, recognisance entered into, proceedings begun, appointment made, or other thing done before 1st March 1980 by, from, to or before any justices for an existing 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.

6. 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 existing division shall have effect as if it had directed payment to be made to the clerk to the justices for the respective new division.

7.—(1) Any process, records, or other documents in the custody, by virtue of his office as such, of the clerk to the justices of an existing 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 that 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 existing division.

8. Where an existing division is named in a community service order, probation order, or 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 PARISH OF RANDWICK BY ARTICLE 3(3)

9. The transfer of the parish of Randwick by Article 3(3) of this Order shall not affect any proceedings commenced before 1st March 1980 before justices for the Whitminster division and any such proceedings may be disposed of as if the parish formed part of the Whitminster division.

10. Where on 1st March 1980 periodical payments are payable under section 52 of the Magistrates' Courts Act 1952(a) through the clerk to the justices for the Whitminster division to a person who resides in the parish of

(a) 1952 c. 55.

Randwick, the clerk may amend the order so as to require payment to be made through the clerk to the justices for the Stroud division and, if he does so, 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.

11. Where on 1st March 1980 a community service order, a probation order or a supervision order is in force and the offender, probationer or person under supervision is residing in the parish of Randwick, the justices for the Whitminster division 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.

12.—(1) Any order made, licence granted or other thing done under the Licensing Act 1964 by the licensing justices for the Whitminster division in respect of premises situated in the parish of Randwick, being an order or licence in force or other thing having effect immediately before 1st March 1980, 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 Stroud division.

(2) Anything done under the Betting, Gaming and Lotteries Act 1963(a) or the Gaming Act 1968(b) by or in relation to the betting licensing committee for the Whitminster division in respect of premises situated in the parish of Randwick, being a thing having effect immediately before 1st March 1980, 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 Stroud division; and anything done under either of those Acts by, or in relation to, any other person or body shall have effect accordingly.

(a) 1963 c. 2.

(b) 1968 c. 65.

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 Gloucestershire and provides for the petty sessional divisions of Berkeley and Dursley to be combined to form a new petty sessional division of Berkeley and Dursley and for the petty sessional divisions of Gloucester (City) and Gloucester County to be combined to form a new petty sessional division of Gloucester. The Order also provides for the parish of Randwick to be transferred from the petty sessional division of Whitminster to the petty sessional division of Stroud.