STATUTORY INSTRUMENTS

1977 No. 1604

MAGISTRATES' COURTS

The Petty Sessional Divisions (Powys) Order 1977

Made - - - - - 3*rd October*, 1977

Coming into operation in accordance with Article 1

Whereas the magistrates' courts committee for the county of Powys 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 (Powys) Order 1977 and shall come into operation on 1st January 1978, except that for the purposes of paragraph 2 of the Schedule 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 January 1978 ordinarily act, in and for that division.

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

3. The divisions of Brecon and Defynock shall be combined to form a new division which shall be known as the Brecon division and the divisions of Presteigne and New Radnor shall be combined to form a new division which shall be known as the East Radnor division.

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

4. The transitional and other consequential provisions set out in the Schedule 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.
3rd October, 1977.

Article 4. SCHEDULE

TRANSITIONAL AND OTHER CONSEQUENTIAL PROVISIONS

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 Brecon division or the Defynock division the new Brecon division and in the case of the existing Presteigne division or the New Radnor division the new East Radnor 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) of the Children Act 1975(e).

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 January 1978—

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

(*b*) a juvenile court panel;

(*c*) one or more case committees;

(*d*) a justice to serve as a member of the magistrates' courts committee for the county of Powys;

(*e*) a divisional licensing committee;

(*f*) a betting licensing committee.

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

(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 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 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 a divisional licensing committee, the manner prescribed by Part 1 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 a 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 January 1978.

3. The permitted hours under Part III of the Licensing Act 1964 in force immediately before 1st January 1978 in an existing division shall continue in force there until the coming into operation of an order under the said Part III, fixing permitted hours, made in the year 1978 at the general annual licensing meeting of the justices for the respective new division.

4. Anything required by virtue of the foregoing provisions of this Schedule to be done on or after 1st January 1978 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 January 1978 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 for 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.

(a) 1964 c. 26.

(b) S.I. 1960/1701 (1960 I, p. 363).

(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.

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 Powys and provides for the petty sessional divisions of Brecon and Defynock to be combined to form a new petty sessional division of Brecon and for the petty sessional divisions of Presteigne and New Radnor to be combined to form a new petty sessional division of East Radnor.

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