STATUTORY INSTRUMENTS

2016 No. 709

JUSTICES OF THE PEACE, ENGLAND AND WALES

The Justices of the Peace Rules 2016

Made - - - - *30th June 2016*

Laid before Parliament *7th July 2016*

Coming into force in accordance with rule 1

The Senior Presiding Judge, as a nominee of the Lord Chief Justice under section 20(3) of the Courts Act 2003(**1**) makes the following Rules, in exercise of the powers conferred on him by:

sections 10(4), 17(2) and (5), 18(6) and (7), 19(1) and (2), and 108(6) of the Courts Act 2003(**2**), and after consultation with the Lord Chancellor, the Criminal Procedure Rule Committee and the Family Procedure Rule Committee, in accordance with section 20(2) of that Act; and

section 45(4) of the Children and Young Persons Act 1933(**3**) with the concurrence of the Lord Chancellor and after consultation with the Criminal Procedure Rule Committee in accordance with section 45(6) of that Act:

PART 1

Introductory provisions

Citation and commencement

1.—(1) These Rules may be cited as the Justices of the Peace Rules 2016.

(2) These Rules come into force on 31st July 2016 for the purposes of—

(a) Part 1 (introductory provisions);

(b) Part 2 (composition of magistrates' courts);

(**1**) 2003 c. 39. Section 20(2) was amended by paragraph 321 of Schedule 4 to the Constitutional Reform Act 2005 c. 4 and by S.I. 2012/2398. Section 20(3) was inserted by paragraph 321 of Schedule 4 to the Constitutional Reform Act 2005 c. 4.

(**2**) 2003 c. 39. Section 17 has been amended by paragraph 319(2) of Schedule 4(1) to the Constitutional Reform Act 2005 c. 4. Section 19 has been amended by paragraph 320(2) of Schedule 4 to the Constitutional Reform Act 2005 c. 4, and by paragraph 86 of Schedule 10 to the Crime and Courts Act 2013 c. 22. Section 108(6) has been amended by paragraph 348 of Schedule 4 to the Constitutional Reform Act 2005 c. 4.

(**3**) 1933 c. 12. Section 45 was substituted by the Courts Act 2003, section 50(1) and amended by the Constitutional Reform Act 2005, Schedule 4, paragraph 20.

(c) Part 3 (elections);

(d) Part 4, Chapter 1 (compulsory training);

(e) Rule 23 (JTAAAC selection panel), and

(f) Rule 27 (FTAAAC selection panel).

(3) These Rules come into force on 1st April 2017 for the purposes of—

(a) Part 4, Chapter 2 (JTAAAC), other than Rule 23;

(b) Part 4, Chapter 3 (FTAAAC), other than Rule 27, and

(c) Part 4, Chapter 4 (provisions relating to both JTAAACs and FTAAACs).

Revocations and transitional provisions

2.—(1) Subject to paragraph (2)—

(a) the Justices of the Peace (Size and Chairmanship of Bench) Rules 2005 ("the 2005 Rules")(**4**);

(b) the Family Court (Constitution of Committees: Family Panels) Rules 2014 ("the 2014 Rules")(**5**), and

(c) the Youth Courts (Constitution of Committees and Right to Preside) Rules 2007 ("the Youth Courts Rules 2007")(**6**)

are revoked.

(2) Appointments made under the 2005 Rules continue until 31st March 2017 as if those Rules were still in force.

(3) The Justices of the Peace (Training and Development Committee) Rules 2007 ("the TDC Rules 2007")(**7**) remain in force until 31st March 2017, after which date they are revoked.

(4) Appointments made under the TDC Rules 2007 continue until 31st March 2017 (but do not continue after that date), even if, by virtue of those Rules, they would otherwise end before that date.

(5) Any period of office under Rule 13 of the 2005 Rules is counted as a term when determining whether a justice is eligible for re-election under Rule 18, except where any such period of office is three months or less.

(6) The term of any appointment under the TDC Rules 2007 is counted when determining whether a justice is eligible for re-election under Rule 28.

Interpretation

3. In these Rules—

"adult court" means a magistrates' court other than a youth court;

"advisory committee" means one of the Lord Chancellor's advisory committees on justices of the peace;

"eligible justice" means a justice or a family justice who is eligible to stand for election and to vote in an election pursuant to Rule 7;

"family justice" means a justice who is authorised by or on behalf of the Lord Chief Justice to conduct business in the family court;

"family justice member" has the meaning given in Rule 26(1)(a);

(**4**) S.I. 2005/553, as amended by S.I. 2014/879.
(**5**) S.I. 2014/842.
(**6**) S.I. 2007/1611, as amended by S.I. 2007/2622 and 2011/1494.
(**7**) S.I. 2007/1609, as amended by S.I. 2011/1493 and 2014/879.

"FTAAAC" means a Family Training, Approvals, Authorisations and Appraisals Committee, and references to justices in relation to an FTAAAC mean family justices assigned to the local justice area or areas in the FTAAAC area;

"FTAAAC area" means the area specified by or on behalf of the Lord Chief Justice as the area for which an FTAAAC operates;

"FTAAAC selection panel" means the selection panel for each FTAAAC area, elected to appoint members of the relevant FTAAAC;

"JTAAAC" means a Justices' Training, Approvals, Authorisations and Appraisals Committee, and references to justices in relation to a JTAAAC mean justices assigned to the local justice area or areas in the JTAAAC area;

"JTAAAC area" means the area specified by or on behalf of the Lord Chief Justice as the area for which a JTAAAC operates;

"JTAAAC selection panel" means the selection panel for each JTAAAC area, elected to appoint the members of the relevant JTAAAC;

"justice" means a justice of the peace who is not a District Judge (Magistrates' Court) and, in relation to a local justice area, means a justice who is assigned to that area;

"justices' clerk" in relation to a local justice area, means a justices' clerk assigned to that area;

"justice member" has the meaning given in Rule 22(1)(a);

"magistrates' court" means any court in which a justice is authorised to sit, other than a family court or a Crown Court, and

"youth justice" means a justice who is authorised by or on behalf of the Lord Chief Justice to sit as a member of a youth court.

PART 2

Composition of magistrates' courts

Size of bench

4. The number of justices sitting to deal with a case as a magistrates' court must not be greater than three.

Presiding justices

5.—(1) This Rule does not apply to any justice sitting in a magistrates' court in accordance with section 16A of the Magistrates' Courts Act 1980(**8**).

(2) Subject to paragraph (3), a magistrates' court must be presided over by—

(a) a District Judge (Magistrates' Courts);

(b) a justice who has been approved in accordance with these Rules, or

(c) a justice who has completed or is undertaking approved training courses in accordance with Rule 19(b) or (d) (as applicable), and is under the supervision of a justice who has been approved to preside in that court.

(3) The justices present may, in the absence of a justice entitled to preside under paragraph (2), appoint one of their number to preside in a magistrates' court to deal with any case if—

(**8**) 1980 c. 43. Section 16A was inserted by section 48 Criminal Justice and Courts Act 2015 c. 2.

(a) before making such an appointment, the justices present are satisfied as to the suitability for this purpose of the justice proposed, and

(b) except as mentioned in paragraph (4), the justice proposed has completed or is undertaking training courses in accordance with Rule 19(b) or (d) (as applicable) to enable that justice, if approved, to preside in that court.

(4) The condition in paragraph (3)(b) does not apply if by reason of illness, circumstances unforeseen when the justices to sit were chosen, or other emergency, no justice who complies with that condition is present.

PART 3

Elections

CHAPTER 1

Procedure

General provision

6. This Part sets out the election procedure for —

(a) the offices of chairman and deputy chairman for each local justice area, and

(b) membership of the FTAAAC and JTAAAC selection panels for each FTAAAC and JTAAAC area.

Eligibility of justices and family justices

7.—(1) A justice is eligible to stand for election and to vote in an election for the offices of chairman and deputy chairman, and membership of a JTAAAC selection panel if, on the relevant date, that justice is assigned to a local justice area to which the election relates.

(2) A family justice is eligible to stand for election and to vote in an election for membership of an FTAAAC selection panel if, on the relevant date, that justice is assigned to a local justice area to which the election relates.

(3) The relevant date in paragraphs (1) and (2) is the day on which the justices' clerk informs the eligible justices under Rule 10(2).

Procedure for elections

8.—(1) The election procedure consists of a notice of candidacy procedure, and, except as provided in paragraph (2), a secret ballot.

(2) A secret ballot is not required where the justices required to fill the available vacancies are elected under Rule 10(6)(a) or (b).

(3) The timetable for the election procedure must be determined by the justices' clerk and published before or at the start of the procedure.

(4) Any timetable must allow sufficient time for receipt of notices of candidacy and a secret ballot where required.

Deputy chairmen

9.—(1) The election procedure in respect of a deputy chairman must commence after the election of the chairman has been completed and the result declared.

(2) The number of deputy chairmen is determined by the justice elected as chairman for the duration of the term in which the deputy chairman or chairmen will serve.

Notice of candidacy procedure

10.—(1) Eligible justices who want to be elected in respect of a vacancy must complete a notice of candidacy.

(2) The justices' clerk must inform eligible justices that they may submit a notice of candidacy, in accordance with paragraph (3).

(3) The justices' clerk must determine and specify:

(a) the manner in which notices are to be submitted;

(b) the means by which notices can be submitted, and

(c) a closing date for receipt of notices.

(4) The justices' clerk, or anyone nominated to act on their behalf, must be satisfied that each notice has been submitted in accordance with the specifications made under paragraph (3).

(5) A notice that has not been submitted in accordance with the specifications in paragraph (3) must not be treated as a valid notice.

(6) Where—

(a) a single valid notice of candidacy is received for a vacancy, the candidate who submitted that notice is elected;

(b) the number of valid notices of candidacy received is less than or equal to the number of vacancies, those candidates are elected.

(7) As soon as practicable after an election under paragraph (6), the justices' clerk must notify the candidates as to the result.

(8) As soon as practicable after notifying the candidates under paragraph (7), the justices' clerk must notify the eligible justices as to the result.

Secret ballot

11.—(1) Where the valid notices of candidacy exceed the number of vacancies, the justices' clerk must arrange a secret ballot.

(2) The justices' clerk must inform the eligible justices that they may vote in the secret ballot in accordance with paragraph (3).

(3) The justices' clerk must —

(a) determine and specify the procedure to be followed for the ballot;

(b) inform eligible justices of the names of the candidates and the means by which votes may be cast, and

(c) specify a closing date by which votes must be cast if they are to be counted in the ballot.

(4) Where the election is for a single vacancy, each eligible justice may cast one vote in accordance with the specified procedure.

(5) Where the election is for more than one vacancy, each eligible justice may cast one vote per vacancy (up to but not exceeding the number of vacancies) in accordance with the specified procedure.