



# Justice (Northern Ireland) Act 2002

## 2002 CHAPTER 26

### PART 1

#### THE JUDICIARY

##### *Magistrates*

#### **9 Lay magistrates**

- (1) The Lord Chancellor must, for each county court division, appoint persons to be lay magistrates for the division.
- (2) A person may not be appointed to be a lay magistrate unless—
  - (a) he has completed a course of training approved by the Lord Chancellor, or
  - (b) he has given an undertaking in writing to attend such a course of training.
- (3) It is a condition of the appointment of a person under subsection (2)(b) that he will complete such a course of training within the period of one year beginning with the date of his appointment or such longer period as the Lord Chancellor may allow.
- (4) The Lord Chancellor may by order make further provision about eligibility for appointment to be a lay magistrate.
- (5) The provision which may be made by an order under subsection (4) includes (in particular) provision that a person may not be appointed to be a lay magistrate—
  - (a) if he does not reside or work in, or within a prescribed distance of, the county court division to which the appointment relates,
  - (b) if he, or a person related to or otherwise connected with him in a prescribed manner, holds an office of a prescribed description, has an occupation of a prescribed description or has been selected as a candidate for election to a prescribed body,
  - (c) if a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or

- (d) if he has been convicted of a prescribed offence,  
unless the Lord Chancellor otherwise determines in the case of a particular person.
- (6) “Prescribed” means prescribed in the order.
- (7) No act by a person appointed to be a lay magistrate is invalidated by reason only that he is not a lay magistrate because he was not eligible to be appointed.
- (8) A lay magistrate ceases to hold office on the day on which he attains the age of 70.
- (9) No act by a person who has been a lay magistrate is invalidated by reason only that he has ceased to hold office under subsection (8).
- (10) The Lord Chancellor may remove a lay magistrate from office.
- (11) The Lord Chancellor must pay to lay magistrates any such allowances as he may determine.
- (12) The Lord Chief Justice, Lords Justices of Appeal, judges of the High Court and county court judges may exercise any function of a lay magistrate (in relation to any matter arising within any county court division).
- (13) In paragraph 11 of Schedule 2 to the Northern Ireland Act 1998 (c. 47) (excepted matters: judicial offices), after “resident magistrates,” insert “lay magistrates.”
- (14) “County court division” means a division specified under Article 3(1) of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)).

## 10 Transfer of functions of justices of the peace

- (1) Subject as follows, the functions of justices of the peace (including their functions as members of a court) are transferred to lay magistrates.
- (2) A lay magistrate sitting out of petty sessions may not exercise any function conferred or imposed on a magistrates' court in relation to the conduct of proceedings for an offence, apart from a function to which subsection (3) applies.
- (3) This subsection applies to —
- (a) any function of issuing a warrant or summons,
  - (b) any function of remanding an accused who has not previously been remanded for the offence,
  - (c) any function of ordering a person to enter into a recognisance to keep the peace or to be of good behaviour,
  - (d) the function under section 21(3) of the [Treatment of Offenders Act \(Northern Ireland\) 1968 \(c. 29 \(N.I.\)\)](#) (committal where offence committed during suspended sentence etc.),
  - (e) the function under Article 5(4) of the [Treatment of Offenders \(Northern Ireland\) Order 1976 \(S.I. 1976/226 \(N.I. 4\)\)](#) (committal where offence committed after early discharge),
  - (f) the functions under section 51(8) of the [Judicature \(Northern Ireland\) Act 1978 \(c. 23\)](#) (committal etc. of person in custody in pursuance of Crown Court warrant),
  - (g) any function relating to perjury, misbehaviour or failure to testify in proceedings before a lay magistrate exercising any function to which this subsection applies,

- (h) any function relating to adjournment of, or any other ancillary matter concerning, such proceedings,
  - (i) the function of granting a criminal aid certificate in respect of a person where the lay magistrate is dealing, or has previously dealt, with him by virtue of paragraph (b), (c) or (g), and
  - (j) the function of granting a criminal aid certificate in relation to an appeal against anything done by a lay magistrate by virtue of paragraph (c) or (g).
- (4) The Lord Chancellor may by order amend subsection (3).
- (5) Subsection (1) is subject to paragraphs 1 to 3 of Schedule 4 which specify functions which are to remain functions of justices of the peace (instead of, or as well as, becoming functions of lay magistrates) or to become functions only of resident magistrates.
- (6) Schedule 4 also contains amendments consequential on this section.
- (7) In this section references to a function are to a function conferred or imposed by an enactment or instrument passed or made before the time when this section comes into force (including a function conferred or imposed by a provision not in force at that time).

## 11 Transfer of functions of lay panellists

- (1) In paragraph 3(1) of Schedule 2 to the [Children and Young Persons Act \(Northern Ireland\) 1968 \(c. 34 \(N.I.\)\)](#) (composition of juvenile courts), for “persons selected from one or more of the panels mentioned in sub-paragraph (2)” substitute “lay magistrates for the county court division which includes the petty sessions district or districts for which the court acts or any other county court division which adjoins that county court division”.
- (2) In section 178 of that Act (assessors for county court in appeals from juvenile courts)
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- (a) in subsection (1), for “persons selected from one or more than one of the appropriate juvenile court panels,” substitute “appropriate lay magistrates, at least one of whom (where practicable) is a woman,”
  - (b) in subsection (2), for “person” (in each place) substitute “lay magistrate”, and
  - (c) in subsection (4), for the definition of “the appropriate juvenile courts panels” substitute—  
““appropriate lay magistrate” means a lay magistrate for the county court division for which the county court is held or any other county court division which adjoins that county court division;”.
- (3) In Article 165(2)(i) of the [Children \(Northern Ireland\) Order 1995 \(S.I. 1995/755 \(N.I. 2\)\)](#) (rules of court: discharge of functions of court of summary jurisdiction by member of juvenile court panel), for “member of a juvenile court panel” substitute “lay magistrate”.