

Draft Order laid before Parliament under section 90(4) of the Justice (Northern Ireland) Act 2002, for approval by resolution of each House of Parliament

DRAFT STATUTORY RULES OF NORTHERN IRELAND

2003 No.

JUSTICE

Lay Magistrates (Eligibility) (Northern Ireland) Order 2003

*Made - - - - 2003
Coming into operation in accordance with Article 1(1)
of this Order*

The Lord Chancellor, in exercise of the powers conferred on him by sections 9(4), (5) and (6) of the Justice (Northern Ireland) Act 2002⁽¹⁾ and of all other powers enabling him in that behalf, hereby makes the following Order, a draft of which has been approved by each House of Parliament:

Title, commencement and interpretation

1.—(1) This Order may be cited as the Lay Magistrates (Eligibility) (Northern Ireland) Order 2003 and shall come into operation on the day after making.

(2) In this Order –

“close relative” means, in relation to a particular person, the father, father-in-law, mother, mother-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law or step child of that person and any such relative of a person who is a partner of that person;

“court security officer” means a person mentioned in section 79(3) of the Justice (Northern Ireland) Act 2002;

“education welfare officer” means a person appointed by a local Education Board to ensure that all children within compulsory school age receive regular, appropriate education and to assist –

- (a) families to discharge their statutory responsibilities; and
- (b) children, families and schools to resolve education related issues;

“partner” means, in relation to a particular person, another person (whether of a different sex or the same sex) with whom that person is living in an enduring family relationship;

“process server” means a person required, under Rule 2(3) of Order 6 of the County Court Rules (Northern Ireland) 1981⁽²⁾, to serve all civil bills and other documents received by him for service;

(1) 2002 c. 26
(2) S.R. 1981 No. 225

“social care worker” has the same meaning as in section 2(2) of the Health and Personal Social Services Act (Northern Ireland) 2001⁽³⁾, and includes any person who is to be treated as a social care worker for the purposes of that Act by regulations made under section 2(3), and “summons server” means a person required, under Rule 11(2) of the Magistrates' Courts Rules (Northern Ireland) 1984⁽⁴⁾, to serve summonses in a petty sessions district.

Eligibility of persons for appointment as lay magistrates

2. Unless the Lord Chancellor otherwise determines in the case of a particular person, no person shall be appointed to be a lay magistrate –

- (a) if he does not reside or work in, or within 15 miles of, the county court division to which the appointment relates;
- (b) if he is a member of –
 - (i) the House of Commons or the House of Lords,
 - (ii) the European Parliament,
 - (iii) the Northern Ireland Assembly,
 - (iv) the Irish Parliament (Dail Eireann),
 - (v) the Scottish Parliament, or
 - (vi) the National Assembly for Wales;
- (c) if he has been selected (whether formally or informally) as a prospective candidate for election to any such parliament or assembly;
- (d) if he is employed as a paid agent of a political party seeking representation in any such parliament or assembly;
- (e) if he is –
 - (i) a police officer,
 - (ii) a member of a police reserve,
 - (iii) a civilian employee of a police force,
 - (iv) a member or employee of, or a person seconded to, the Northern Ireland Policing Board⁽⁵⁾,
 - (v) the Director of the Department of Public Prosecutions,
 - (vi) an employee of the Department of Public Prosecutions,
 - (vii) the Police Ombudsman for Northern Ireland⁽⁶⁾,
 - (viii) an employee of the Police Ombudsman for Northern Ireland,
 - (ix) a court security officer,
 - (x) a member of staff of the Northern Ireland Court Service,
 - (xi) a member of staff of the Northern Ireland Prison Service,
 - (xii) a probation officer or probation assistant,
 - (xiii) a member of staff of, or a person seconded to, the Assets Recovery Agency⁽⁷⁾,
 - (xiv) a member of Her Majesty’s Regular Armed Forces,

(3) 2001 c. 3

(4) S.R. 1984 No. 255

(5) Established under section 2 of the Police (Northern Ireland) Act 2000 (c. 32)

(6) Established by section 51 of the Police (Northern Ireland) Act 1998 (c. 32)

(7) Established under section 1 of the Proceeds of Crime Act 2002 (c. 29)

- (xv) a traffic warden,
 - (xvi) a store detective,
 - (xvii) a practising barrister or solicitor,
 - (xviii) a notary public,
 - (xix) a sheriff in the same county court division to which the appointment may be made,
 - (xx) a summons server,
 - (xxi) a process server,
 - (xxii) a civil servant,
 - (xxiii) a social care worker,
 - (xxiv) an education welfare officer,
 - (xxv) a member of the Probation Board for Northern Ireland⁽⁸⁾,
 - (xxvi) a lay or custody visitor⁽⁹⁾ to a police station,
 - (xxvii) a lay visitor to a penal establishment,
 - (xxviii) a member of a Board of Visitors⁽¹⁰⁾ to a penal establishment,
 - (xxix) a member of a district policing partnership⁽¹¹⁾,
 - (xxx) a prison after-care worker,
 - (xxxii) an employee of, or a trained volunteer for, Victim Support,
 - (xxxiii) an employee of the National Society for the Prevention of Cruelty to Children,
 - (xxxiii) an employee of the Ulster Society for the Prevention of Cruelty to Animals,
 - (xxxiv) an employee of, or a trained volunteer for, Relate or a family mediation service who (in each case) carries out his duties in the same county court division to which the appointment may be made, or
 - (xxxv) a relationship counsellor who carries out his duties in the same county court division to which the appointment may be made;
- (f) if he is the spouse or partner of –
- (i) a police officer,
 - (ii) a member of a police reserve,
 - (iii) a civilian employee of a police force,
 - (iv) a member of Her Majesty’s Regular Armed Forces,
 - (v) a member of staff of the Northern Ireland Court Service, or
 - (vi) a member of staff of the Northern Ireland Prison Service;
- (g) if he is the spouse, partner or close relative of –
- (i) a judge or magistrate serving in the United Kingdom or the Republic of Ireland,
 - (ii) the Director of the Department of Public Prosecutions,
 - (iii) the Police Ombudsman for Northern Ireland,
 - (iv) a member of staff of, or a person seconded to, the Assets Recovery Agency, or

⁽⁸⁾ Established under article 3 of the Probation Board (Northern Ireland) Order 1982 (S.R. 1982 No. 713)

⁽⁹⁾ Established by section 73 of the Police (Northern Ireland) Act 2000

⁽¹⁰⁾ Established under section 10 of the Prisons (Northern Ireland) Act 1953 (1953 c. 18)

⁽¹¹⁾ Established under section 14 of the Police (Northern Ireland) Act 2000

- (v) a court security officer, a probation officer or probation assistant, a summons or process server, an employee of the Department of Public Prosecutions or a traffic warden who (in each case) performs his duties in the same county court division to which the appointment may be made;
- (h) if he is the close relative of –
 - (i) a police officer,
 - (ii) a member of a police reserve, or
 - (iii) a civilian employee of a police force,who (in each case) performs his duties in the same county court division to which the appointment may be made;
- (i) if he, his spouse or partner is a former –
 - (i) judge or magistrate who served in the United Kingdom or the Republic of Ireland,
 - (ii) police officer,
 - (iii) member of a police reserve,
 - (iv) civilian employee of a police force,
 - (v) Director of the Department of Public Prosecutions,
 - (vi) Police Ombudsman for Northern Ireland,
 - (vii) member of staff of the Northern Ireland Prison Service,
 - (viii) member of staff of, or person seconded to, the Assets Recovery Agency, or
 - (ix) employee of the Department of Public Prosecutions, probation officer or probation assistant or traffic warden who, where that person is the spouse or partner of the person to which the appointment relates (but not otherwise), has performed his duties in the same county court division to which the appointment may be made, unless a period of more than two years has elapsed since that person ceased to have such an occupation;
- (j) 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
- (k) if he has been convicted of an offence punishable by a term of imprisonment exceeding one month.

Dated 2003

EXPLANATORY NOTE

(This note is not part of the Order.)

Under section 9(1) of the Justice (Northern Ireland) Act 2002 the Lord Chancellor is required to appoint persons to be lay magistrates for each county court division in Northern Ireland.

This Order provides that, unless the Lord Chancellor otherwise directs in the case of a particular person, a person will not be eligible for appointment as a lay magistrate if –

(1) he does not reside or work in (or within 15 miles of) the county court division to which the appointment relates (article 2(a));

(2) he is the holder of a specified office or has a specified occupation (article 2(b) – (e));

(3) certain persons related to or connected with him hold a specified office or have a specified occupation (article 2(f),(g) and (h));

(4) certain persons related to or connected with him have held a specified office or specified occupation in a preceding two year period (article 2(i));

(5) 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 (article 2(j)); or

(6) he has been convicted of an offence punishable by a term of imprisonment exceeding one month (article 2(k)).