

1978 No. 356

**SUPREME COURT, NORTHERN IRELAND
WINTER ASSIZE**

Northern Ireland Winter Assize Order 1978

Made 17th November 1978

Coming into operation 15th December 1978

To be laid before Parliament

The Secretary of State in pursuance of article 5 of the Administration of Justice (Northern Ireland) Order 1975(a) hereby makes the following order:

Citation and operation

1. This order may be cited as the Northern Ireland Winter Assize Order 1978 and shall come into operation on 15th December 1978 and, unless previously revoked, shall be in force until 31st March 1979.

Interpretation

2. In this order—

“the winter assizes” means the winter assizes for the united assize county;

“the united assize county” has the meaning given by article 3;

“the winter assizes under-sheriff” has the meaning given by article 6;

and a reference to the clerk of the Crown and peace for the county of Down includes a reference to any person undertaking the functions of that clerk of the Crown and peace in relation to the winter assizes for the purposes of this order or any person for the time being acting in that capacity.

Counties united for purposes of winter assizes

3. The counties of Antrim, Armagh, Down, Fermanagh, Tyrone and Londonderry and the county of the city of Londonderry shall be united with each other for the purposes of the winter assizes and shall form one county under the name of the united assize county.

Place for holding winter assizes

4. The next winter assizes for the united assize county shall be held in the courthouse of the county of Down at Downpatrick.

Jurisdiction of court at winter assizes

5.—(1) The court at the winter assizes shall have jurisdiction to try any person—

(a) committed for trial at assizes or a county court in the united assize county (other than a person committed for trial to a county court under section 47(6) of the Magistrates' Courts Act (Northern Ireland) 1964(b)); or

(a) S.I. 1975/816 (N.I. 7)

(b) 1964 c. 21 (N.I.)

- (b) against whom an indictment has been presented in any county united in the united assize county, the trial of which stands postponed; or
- (c) against whom a bill of indictment has been presented to it in accordance with section 2 of the Grand Jury (Abolition) Act (Northern Ireland) 1969(c);
- for any indictable offence.

(2) The court at the winter assizes shall have the same powers with respect to the trial of any such person as a court of oyer and terminer and general gaol delivery would have had at the assizes in the county where, but for this order, such person would have been tried.

(3) Any indictment presented at the winter assizes, the trial of which is postponed, shall be a valid indictment to be tried at any future court of oyer and terminer and general gaol delivery or county court for the county where the offence is charged or is deemed to have been committed.

The winter assizes under-sheriff

6.—(1) Subject to this order, the under-sheriff of the county of Down (in this order referred to as “the winter assizes under-sheriff”) shall alone act for the purpose of the united assize county.

(2) Subject to paragraph (3) the winter assizes under-sheriff shall in relation to the winter assizes for which no specific provision is made by this order, have the same functions as if he were under-sheriff for the whole of the united assize county.

(3) The several under-sheriffs of the counties united in the united assize county shall each in respect of his own county carry into execution all sentences imposed upon persons sentenced at the winter assizes.

(4) Precepts and other documents relating to the winter assizes shall be addressed to the winter assizes under-sheriff alone and, subject to this order, the precepts shall direct him to issue and he shall issue the orders, notices, precepts, warrants and documents and perform the acts which he would issue were he under-sheriff for the whole of the united assize county and all under-sheriffs, prison governors, constables and other officers in the united assize county shall obey accordingly.

Juries

7. The precept of the judge or judges to the winter assizes under-sheriff shall direct him to summon, return and empanel the jurors in accordance with the Juries Acts (Northern Ireland) 1871 to 1974 for the purposes of the winter assize.

Prisoners

8.—(1) The precepts of the judges to the winter assizes under-sheriff shall direct him to order all prison governors to cause all prisoners who under the provisions of this order may be tried at Downpatrick to be brought there and the under-sheriff shall cause such prisoners to be brought there, accordingly, without any writ of habeas corpus.

(2) The governor of any prison in which such prisoner is held shall produce him for trial at the winter assizes accordingly.

Duties of officers, etc.

9.—(1) All prison governors, constables, officers and other persons under an obligation to attend the assizes for any county united in the united assize county shall, subject to paragraph (3), attend at the winter assizes.

(2) Clerks of petty sessions and other officers who but for this order are under an obligation to certify, transmit or deliver to such assizes or a county court for such county or the proper officer thereof any indictment, complaint, recognizance, statement, deposition, calendar or any other document or exhibit shall, subject to article 11, certify, transmit, or deliver it to the court at the winter assizes or the proper officer thereof.

(3) Paragraph (1) shall not apply to the under-sheriff of any of the counties united in the united assize county other than the winter assizes under-sheriff.

The clerk of the Crown and peace

10. The clerk of the Crown and peace for the county of Down shall be the clerk of the Crown and peace for the winter assizes and shall have the powers of issuing summonses and subpoenas and of taxing costs relating to the trial of prisoners that the clerk of the Crown and peace of the county where such prisoners were committed would have had if such prisoners had been tried at assizes in that county.

Return of documents to winter assizes

11.—(1) Every document or exhibit referred to in article 9(2) which is returnable to the clerk of the Crown and peace earlier than five days before the day appointed for the opening of the winter assizes shall be returned to the office of the clerk of the Crown and peace to which it would have been returned but for this order.

(2) Every such document or exhibit returnable to the office of the clerk of the Crown and peace five days or less than five days before the day so appointed shall be returned to the office of the clerk of the Crown and peace for the county of Down.

(3) Any such document or exhibit returned to the office of the clerk of the Crown and peace of any county united in the united assize county, other than the office of the clerk of the Crown and peace for the County of Down, shall be transmitted at least three days before the first day of the winter assizes to the office of the clerk of the Crown and peace for the county of Down.

Entries in Crown Book relating to previous trial

12.—(1) Where a case is for trial at the winter assizes which has previously been before a court of assize or county court (other than a court of assize or county court in the county of Down) the clerk of the Crown and peace having custody of the Crown Book containing any entry of any earlier proceedings in the case shall transmit to the office of the clerk of the Crown and peace for the county of Down at least three days before the first day of the winter assizes, a copy of any such entry certified by him to be a true copy.

(2) Such certified copy shall be received for all purposes as a record of such proceedings in the same manner as if the original Crown Book had been produced by the clerk of the Crown and peace who made it.

Recognizances

13.—(1) Where any person is apart from this order bound by his recognizance to appear and prosecute or give evidence in the case of any person committed for trial or to surrender or take his trial at any assizes or county court to be held in any of the counties united in the united assize county and upon whom is served notice on behalf of the Crown not less than six days before such trial, his recognizance shall have effect as if entered into for appearance at the winter assizes.

(2) Such a person shall be bound to appear at the winter assizes or forfeit his recognizance.

(3) Nothing in this order shall affect the recognizance of any person to whom such notice as is specified in paragraph (1) has not been given.

(4) Notice under paragraph (1) shall be served personally upon the person bound by the recognizance or by leaving it at the place specified in the recognizance as being his residence.

Governors of prisons to transmit calendars

14.—(1) Not less than ten days before the day appointed for the opening of the winter assizes a calendar of the prisoners to be tried there together with a short statement of the offences with which they are charged shall be transmitted by the governor of any prison in which the prisoner is held to the governor of Her Majesty's prison at Belfast and to the office of the clerk of the Crown and peace for the county of Down.

(2) That clerk of the Crown and peace shall cause the calendar and statement to be inserted in one or more newspapers circulating in the united assize county together with a notice that persons bound to appear and prosecute or give evidence at the trial of any such prisoner are in accordance with article 13(1) required to appear at the winter assizes.

(3) The governor of any prison in which a person to be tried at the winter assizes is held shall notify him that he will be so tried.

Records and Crown Books

15.—(1) The records of each county united for the purpose of the winter assizes by this order shall be kept separate and distinct.

(2) The clerk of the Crown and peace for the county of Down shall keep a separate Crown Book for the records of each such county.

(3) After the winter assizes he shall return such book and all indictments, depositions, recognizances and other records belonging to each county to the appropriate clerk of the Crown and peace.

Savings

16.—(1) Except for the purposes of presenting indictments, the trial of persons triable at the winter assizes and proceedings consequent upon such trial, the winter assizes shall not be deemed an assize for any of the counties united for the purposes of the winter assizes by this order.

(2) Except as provided by this order, any notice, application, act or proceedings which might otherwise have been served, given, made, done or taken for or at the next or any other assizes for any county united for the purpose of the winter assizes by this order may, as the case may be, be served, given, made, done or taken as if this order had not been made.

(3) Nothing in this order shall derogate from any function which the court at the winter assizes may exercise.

Northern Ireland Office
17th November 1978

Roy Mason
One of Her Majesty's Principal
Secretaries of State

EXPLANATORY NOTE

(This note is not part of the order but is intended to indicate its general purport.)

This order is made under article 5 of the Administration of Justice (Northern Ireland) Order 1975 and constitutes the whole of Northern Ireland, other than the city of Belfast, a single county (known as the united assize county) for the purpose of the winter assizes.

It provides that the winter assizes be held in the courthouse at Downpatrick.