

SCHEDULES

SCHEDULE 4

Section 10

FUNCTIONS OF JUSTICES OF THE PEACE

Retained functions

- 1 (1) A function of justices of the peace under any provision to which sub-paragraph (2) applies is to remain a function of theirs (and is not transferred to lay magistrates).
- (2) This sub-paragraph applies to—
 - (a) sections 79 and 80 of the Harbours, Docks, and Piers Clauses Act 1847 (c. 27) (appointment and dismissal of harbour police),
 - (b) section 542(2) of the Merchant Shipping Act 1894 (c. 60) (declaration by marine store dealer),
 - (c) section 6(2A) of the Game Preservation Act (Northern Ireland) 1928 (c. 25 (N.I.)) (destruction of game),
 - (d) section 23(1) of the Government Annuities Act 1929 (c. 29) (confirmation of declaration),
 - (e) section 63(3) and (4) of the Foyle Fisheries Act (Northern Ireland) 1952 (c. 5 (N.I.)) (destruction or disposal of fish),
 - (f) section 10(4) (board of visitors) and section 19(1) and (2) (right to visit prison) of the Prison Act (Northern Ireland) 1953 (c. 18 (N.I.)),
 - (g) section 8(3) of the Agricultural Produce (Meat Regulation and Pig Industry) Act (Northern Ireland) 1962 (c. 13 (N.I.)) (certificate authorising destruction or disposal of meat),
 - (h) section 47(1) and (2) of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (declaration of expenses at election),
 - (i) section 114(1) (certificate of fitness for dealer's licence) and section 181(4) (certificate of fish to be destroyed or disposed of) of the Fisheries Act (Northern Ireland) 1966 (c. 17 (N.I.)),
 - (j) section 57 of the Civil Aviation Act 1982 (c. 16) (appointment and swearing in of constables),
 - (k) section 1(2)(c) of the Ministry of Defence Police Act 1987 (c. 4) (declaration by members of Ministry of Defence police force),
 - (l) Article 8(3) to (7) of the Food Safety (Northern Ireland) Order 1991 (S.I. 1991/762 (N.I. 7)) (condemnation of food not complying with food safety requirements),
 - (m) Article 19(3) of the Airports (Northern Ireland) Order 1994 (S.I. 1994/ 426 (N.I. 1)) (declaration by airport constables),
 - (n) section 38(1) of the Police (Northern Ireland) Act 2000 (c. 32) (attestation of constables of Police Service of Northern Ireland),
 - (o) section 18(2) and (3) of the Street Trading Act (Northern Ireland) 2001 (c. 8 (N.I.)) (certificate of seized items).

Shared functions

- 2 (1) A function of justices of the peace under any provision to which sub-paragraph (2) applies is to remain a function of theirs but is also to become a function of lay magistrates.
- (2) This sub-paragraph applies to—
- (a) section 26(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) (power to administer oaths),
 - (b) Article 56(1) of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) (affidavits for use in a county court).

Functions to be exercisable only by resident magistrates

- 3 (1) A function of justices of the peace or magistrates' courts under a provision to which sub-paragraph (2) applies is to be a function only of resident magistrates.
- (2) This sub-paragraph applies to—
- (a) Article 5(1) and (2) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (indecent photographs: forfeiture),
 - (b) Article 152 of the Magistrates' Courts (Northern Ireland) Order 1981 (S. I. 1981/1675 (N.I. 26)) (enforcement of orders after appeal),
 - (c) Articles 44 and 45 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (warrants of further detention).

Amendments: general

- 4 The Lord Chancellor may by order amend paragraph 1(2), 2(2) or 3(2)—
- (a) by adding any provision contained in any enactment or instrument passed or made before the coming into force of this Schedule, or
 - (b) by removing any provision.
- 5 The Lord Chancellor may by order make provision amending any enactment or instrument in consequence of the provision made by section 10 or by or by virtue of the preceding provisions of this Schedule.
- 6 So far as may be appropriate in consequence of the provision made by section 10 or by or by virtue of this Schedule—
- (a) references in any enactment or instrument to a justice of the peace (or to a justice of the peace other than a resident magistrate) may be construed as being or including a reference to a lay magistrate, and
 - (b) references in any enactment or instrument to a magistrates' court may be construed as a reference to a resident magistrate or a court of summary jurisdiction.

Specific amendments

- 7 The references to justices of the peace in sections 13, 15, 16 and 18 of the Statutory Declarations Act 1835 (c. 62) (oaths and declarations) include lay magistrates.
- 8 In section 5(1) of the [General Dealers \(Ireland\) Act 1903 \(c. 44\)](#) (general dealers to produce articles and books on demand of constable authorised by a justice), for “general or special authority of a justice of the peace” substitute “authority of a warrant issued by a lay magistrate”.

Status: This is the original version (as it was originally enacted).

- 9 In section 26(4) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) (administration of oaths), after “upon a” insert “lay magistrate or”.
- 10 In section 189(1) of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) (certificates of arrest or surrender of deserters and absentees), after “justice of the peace” insert “or (in Northern Ireland) resident magistrate”.
- 11 In section 189(1) of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) (certificates of arrest or surrender of deserters and absentees), after “justice of the peace” insert “or (in Northern Ireland) resident magistrate”.
- 12 In sections 47(2) and 110(2) of the Naval Discipline Act 1957 (c. 53) (certificates of arrest and surrender), after “justice of the peace” insert “or (in Northern Ireland) resident magistrate”.
- 13 In section 110(2) of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (non-payment of compensation for unjust etc. charge of personation), for “under the hand and seal of a justice of the peace” substitute “issued by a lay magistrate”.
- 14 In section 12A(2) of the Magistrates' Courts Act (Northern Ireland) 1964 (c. 21 (N.I.)) (rates of allowances payable to justices of the peace), for “Lord Chancellor” substitute “First Minister and deputy First Minister, acting jointly”.
- 15 In section 21 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.)) (offences during suspended sentence etc.), for subsection (2) substitute—

“(2) A summons under this section shall not be issued except on complaint; and a warrant under this section shall not be issued except on complaint in writing and on oath.

(2A) Subsection (2) does not apply to a summons or warrant issued (by virtue of section 9(12) of the Justice (Northern Ireland) Act 2002) by a judge of the Crown Court acting in consequence of a notice under section 20(3) of this Act.”

- 16 The Judicature (Northern Ireland) Act 1978 (c. 23) has effect subject to the following amendments.
- 17 (1) Section 103 (appointment of justices of the peace) is amended as follows.
- (2) In subsection (3), for “Lord Chancellor” substitute “First Minister and deputy First Minister, acting jointly,”.
- (3) In subsections (4) and (5), insert at the beginning “Subject to the Justice (Northern Ireland) Act 2002,”.
- (4) After subsection (5) insert—
- “(5A) A justice of the peace for a county court division may act as such in relation to all matters arising within that division and may so act even if at the time of acting he is in some other area of Northern Ireland.”

- 18 After that section insert—

“103A Power of court of record to bind over

- (1) Any court of record in Northern Ireland having a criminal jurisdiction has, as ancillary to that jurisdiction, the power—
- (a) to bind over to keep the peace; or

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- (b) to bind over to be of good behaviour,
a person who or whose case is before the court by requiring him to enter into his own recognisances or to find sureties (or both) and committing him to prison if he does not comply.
- (2) A magistrates' court is not to be regarded as a court of record for the purposes of subsection (1).”
- 19 In Article 84(6) of the Pollution Control and Local Government (Northern Ireland) Order 1978 (S.I. 1978/1049 (N.I. 19)) (judges and justices not disqualified by being ratepayers etc.), for “and a justice of the peace” substitute “, resident magistrate or lay magistrate”.
- 20 The Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) has effect subject to the following amendments.
- 21 In Article 2(2)(b) (meaning of “magistrates' court”), for “justice of the peace” substitute “lay magistrate”.
- 22 (1) Article 3 (functions of justices etc.) is amended as follows.
- (2) In paragraph (1)—
- (a) for “justice of the peace” substitute “lay magistrate”, and
- (b) for “justices of the peace” substitute “lay magistrates”.
- (3) In paragraph (2)—
- (a) for “justice of the peace other than a resident magistrate” substitute “lay magistrate”, and
- (b) for “justice of the peace by the commission of the peace or” substitute “lay magistrate”.
- 23 In Article 4 (local jurisdiction of justice of the peace), for “justice of the peace” substitute “lay magistrate”.
- 24 In Articles 5 and 6 (immunity)—
- (a) for “justice of the peace” substitute “lay magistrate”, and
- (b) for “such a magistrate or justice” substitute “a resident magistrate or a lay magistrate”.
- 25 In Article 6A (costs)—
- (a) for “justice of the peace” (in each place) substitute “lay magistrate”, and
- (b) for “such a magistrate or justice” substitute “a resident magistrate or a lay magistrate”.
- 26 In Article 7 (clerk’s immunity in respect of warrant to enforce order), for “resident magistrate or other justice of the peace” substitute “magistrates' court”.
- 27 In Article 10(1) and (1A) (defrayal of expenses)—
- (a) for “or other justice of the peace” substitute “, by a lay magistrate”, and
- (b) for “magistrate, justice” substitute “resident magistrate, lay magistrate”.
- 28 In Article 18(4) (procedure)—
- (a) for “other justice of the peace” in the words preceding sub-paragraph (a) and in sub-paragraph (b) substitute “lay magistrate”, and
- (b) for “or justice of the peace” substitute “or lay magistrate”.

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- 29 In Article 42(1)(a) and (b) (reading of depositions), for “other justice of the peace” substitute “lay magistrate”.
- 30 In Article 114(2) (warrants: postponement of issue and stay of execution), insert at the end “; but a lay magistrate sitting out of petty sessions may postpone the issue of a warrant, or stay the execution of it, only if it was issued by him or another lay magistrate.”
- 31 In Article 126(1) (proof of service), for “other justice of the peace” substitute “lay magistrate”.
- 32 In Article 156 (validity of documents)—
(a) for “other justice of the peace” substitute “lay magistrate”, and
(b) for “magistrate, justice or clerk of petty sessions” substitute “person”.
- 33 In Article 158(1) (execution of warrants), for “other justice of the peace” substitute “lay magistrate”.
- 34 In Article 160(1) (misbehaviour in court), for “justice of the peace” substitute “lay magistrate”.
- 35 In paragraph 2 of Schedule 1 (matters which may be dealt with by a justice of the peace out of petty sessions), for “justice of the peace” substitute “lay magistrate”.
- 36 In Article 165(2) of the Insolvency (Northern Ireland) Order 1989 ([S.I. 1989/ 2405 \(N.I. 19\)](#)) (affidavits etc.), for “justices” substitute “lay magistrates”.
- 37 In section 244(6)(a)(ii) of the Criminal Procedure (Scotland) Act 1995 ([c. 46](#)) (community service orders), for “justice of the peace acting for the petty sessions district for the time being specified in the order” substitute “resident magistrate”.
- 38 In Schedule 2 to the Juries (Northern Ireland) Order 1996 ([S.I. 1996/1141 \(N.I. 6\)](#)) (persons ineligible for jury service), after the entry relating to persons holding an office belonging to any court of justice in Northern Ireland insert—
“Lay magistrate.”
- 39 In section 9(5) of the Human Rights Act 1998 ([c. 42](#)) (judicial acts), in the definition of “judge”, after “a justice of the peace” insert “(or, in Northern Ireland, a lay magistrate)”.
- 40 In section 81(1) of the Regulation of Investigatory Powers Act 2000 ([c. 23](#)) (interpretation), after the definition of “interception warrant” insert—
““justice of the peace” does not include a justice of the peace in Northern Ireland;”.