



# Magistrates' Courts Act (Northern Ireland) 1964

## 1964 CHAPTER 21

### PART II

#### RESIDENT MAGISTRATES AND JUSTICES OF THE PEACE

##### APPOINTMENT, OATH AND REMOVAL OF JUSTICES OF THE PEACE

#### <sup>[F1]</sup>3 Justices of the peace.

Justices of the peace shall be appointed in accordance with section 103 of the Judicature (Northern Ireland) Act 1978<sup>M1</sup>.]

**F1** 1978 c.23

#### **Marginal Citations**

**M1** 1978 c. 23

*S. 4 rep. by SRO (NI) 1973/341; SLR 1973; 1978 c. 23*

*S. 5 rep. by 1978 c. 23*

#### **6 Persons disqualified for acting as justices.**

(1) <sup>F2</sup> A person shall not be capable of acting as a justice of the peace whilst he holds office as<sup>F3</sup> . . . , [<sup>F4</sup> member of the Northern Ireland Court Service, notary public or commissioner for oaths].

(2) If any justice of the peace is adjudged bankrupt, or makes any arrangement or composition with his creditors under the Irish Bankrupt and Insolvent Act 1857 or

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the Bankruptcy (Ireland) Amendment Act 1872, he shall be and remain incapable of acting as a justice of the peace until he has been again appointed a justice of the peace.

- (3) A person who is adjudged bankrupt shall not be capable of being appointed a justice of the peace unless and until either the adjudication of bankruptcy against him is annulled or he obtains from the High Court, [<sup>F5</sup> either at the time of or subsequent to his discharge from bankruptcy a certificate that in the opinion of the Court his bankruptcy was caused by misfortune without any misconduct on his part, which] certificate may be issued or refused by the court in its discretion subject to a right of the bankrupt to appeal against the refusal thereof.
- (4) A person shall not be deemed incapable, on grounds of interest or bias, of acting as a justice of the peace in relation to any matter concerning a local authority by reason only that—
  - (a) he is a member of that authority;
  - (b) he is one of several persons liable to be assessed to, or to pay, rates [<sup>F6</sup> made] by that authority; or
  - (c) he is one of any other class of persons liable in common with the others to contribute to, or be benefited by, any rate or fund maintained by that authority or out of which the expenses of that authority are required or authorised to be defrayed.
- (5) Except as provided by subsection (4), nothing in this section shall affect the operation of any rule of law disqualifying a person for acting as justice of the peace in any matter on the ground of interest or bias.
- (6) This section shall not prejudice or affect the operation of—
  - (a) any enactment imposing a disqualification in consequence of any corrupt or illegal practice at an election; or
  - (b) any enactment (not being an enactment repealed by this Act) which provides that a justice of the peace shall not act in a capacity specified in that enactment.

**F2** 1975 NI 7; 1981 NI 26

**F3** SR 1982/192

**F4** 1978 c.23

**F5** 1980 NI 4

**F6** 1977 NI 28

*S. 7 rep. by 2002 c. 26*

*S. 8 rep. by 1978 c. 23*

#### APPOINTMENT AND REMOVAL OF RESIDENT MAGISTRATES

#### **[<sup>F79</sup> Appointment and assignment of resident magistrates.**

- (1) Her Majesty may, on the recommendation of the<sup>F8</sup> Lord Chancellor, appoint fit and proper persons to be resident magistrates, being persons who at the dates of their appointments [<sup>F9</sup> are—
  - (a) members of the Bar of Northern Ireland of at least seven years' standing; or
  - (b) solicitors of the<sup>F10</sup> Supreme Court of at least seven years' standing.]

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*Subs. (2) rep. by 2002 c. 26*

- (3) A resident magistrate shall sit in accordance with directions given by the<sup>F8F10</sup> Lord Chancellor.
- (4) A resident magistrate may, in accordance with such directions, sit in any petty sessions district.
- (5) Subject to subsections (3) and (4), the<sup>F8F10</sup> Lord Chancellor may assign a resident magistrate to one or more petty sessions districts and may from time to time vary any such assignment.]

**F7** 1978 c.23  
**F8** prosp. subst. by 2002 c. 26  
**F9** 2002 c. 26  
**F10** prosp. subst. by 2005 c. 4

## 10 Appointment of deputy resident magistrates.

- (1) <sup>F11</sup>The [<sup>F12</sup> Lord Chancellor] may, ...<sup>F13</sup>, appoint fit and proper persons, [<sup>F12</sup> being persons who are eligible for appointment as<sup>F14</sup>, or have previously been, resident magistrates], to act as deputy resident magistrates during such period or periods as<sup>F11</sup> the [<sup>F12</sup> Lord Chancellor] may direct and subject to<sup>F11</sup> such conditions as the [<sup>F12</sup> Lord Chancellor] may impose.
- (2) Any deputy resident magistrate may exercise and perform all the functions of a resident magistrate.

**F11** prosp. subst. by 2002 c. 26  
**F12** 1978 c.23  
**F13** SI 1973/2163  
**F14** prosp. rep. by 2002 c. 26

## [<sup>F16</sup>11 <sup>F15</sup>Removal of resident magistrates from office.

- (1) Subject to subsection (2) and to section 1 of the Resident Magistrates' Pensions Act (Northern Ireland) 1960<sup>M2</sup>, every resident magistrate shall hold his office during good behaviour, but may be removed from his office by the Lord Chancellor on the ground of incapacity or misbehaviour.
- (2) Subsection (1) shall not apply to a resident magistrate holding office immediately before 1st January 1974 but, subject to section 1 of the Resident Magistrates' Pensions Act (Northern Ireland) 1960, every such resident magistrate shall hold office during good behaviour subject to a power of removal by Her Majesty on an address presented to Her Majesty by both Houses of the Parliament of the United Kingdom.]

**F15** prosp. rep. by 2002 c. 26  
**F16** 1978 c.23

### Marginal Citations

**M2** 1960c. 2

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## REMUNERATION

### 12 Remuneration of resident magistrates.

- (1) [<sup>F17</sup> The Lord Chancellor may, with the consent of the Minister for the Civil Service, determine the salaries] and allowances to be paid to resident magistrates and the conditions applicable thereto.
- (2) Nothing in this section shall affect—

*Para.(a) spent*

- (b) the provisions of the Resident Magistrates' Pensions Act (Northern Ireland) 1960 or section 6(5) of the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935 in relation to resident magistrates to whom those provisions apply.

**F17** 1978 c.23

### [<sup>F18</sup> 12A Travelling, subsistence and financial loss allowances for justices of the peace.

- (1) Subject to the provisions of this section, a justice of the peace<sup>F19</sup> other than a resident magistrate shall be entitled—
  - (a) to receive payments by way of travelling allowance or subsistence allowance where expenditure on travelling or, as the case may be, on subsistence is necessarily incurred by him for the purpose of enabling him to perform any of his duties as a justice, and
  - (b) to receive payments by way of financial loss allowance where for that performance there is incurred by him any other expenditure to which he would not otherwise be subject or there is suffered by him any loss of earnings or of benefit under the enactments relating to social security which he would otherwise have made or received.
- (2) Allowances under this section shall be paid at rates determined by the<sup>F20</sup> Lord Chancellor with the consent of the Treasury.]

**F18** 1982 c.53

**F19** prosp. rep. by 2002 c. 26

**F20** prosp. subst. by 2002 c. 26

*Ss. 13#26 rep. by 1981 NI 26*

*Ss. 27#29 rep. by 1978 c. 23*

*Ss. 30#46 rep. by 1981 NI 26*

*S. 47 rep. by 1978 c. 23*

*Ss. 48#62 rep. by 1981 NI 26*

*S. 63 rep. by 1980 NI 6*

*Ss. 64#66 rep. by 1981 NI 26*

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*S. 67 rep. by 1969 c. 16 (NI)*  
*Ss. 68#104B rep. by 1981 NI 26*  
*Ss. 105#107 rep. by 1969 c. 30 (NI)*  
*S. 108 rep. by 1981 NI 26*  
*S. 109 rep. by 1972 NI 16; 1980 NI 5*  
*Ss. 110#118 rep. by 1981 NI 26*  
*S. 119 rep. by 1969 c. 30 (NI)*  
*Ss. 120#150 rep. by 1981 NI 26*  
*S. 151 rep. by 1978 c. 23*  
*Ss. 152#167 rep. by 1981 NI 26*

#### SUPPLEMENTAL

#### <sup>F21</sup>**168 Expenses.**

*Subs. (1) rep. by 1981 NI 26*

- (2) There shall be charged on and paid out of the Consolidated Fund of<sup>F22</sup> the United Kingdom the salaries payable to resident magistrates under this Act or the Resident Magistrates (Belfast) Act 1911 .

*Subs. (3) rep. by 1981 NI 26*

**F21** 1978 c.23

**F22** By [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), ss. 5, 87, **Sch. 3 para. 10** it is provided that for the words "the United Kingdom" there shall be substituted (prosp.) "Northern Ireland" in s. 168(2). (The said amending Sch. 3 is subsequently substituted (12.4.2010) by the [Northern Ireland Act 2009 \(c. 3\)](#), **Sch. 3 para. 13**; [S.I. 2010/812](#), **art. 2**. This new Sch. 3 of the [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#) does not amend other legislation, therefore this amendment never comes into operation. By Sch. 18 para. 108(3) of [Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), a similar amendment does come into operation on (12.4.2010) (see relevant version.))

*Ss. 169#171 rep. by 1981 NI 26*  
*S. 172 rep. by SLR 1973*

#### **173 Short title and collective citation.**

- (1) This Act may be cited as the Magistrates Courts Act (Northern Ireland) 1964 and shall be included among the Acts which may be cited to gether as the Summary Jurisdiction Acts (Northern Ireland).

*Subs. (2) rep. by 1978 c. 23*

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