

# JUSTICE (NORTHERN IRELAND) ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY

#### Part 1: the Judiciary

#### Magistrates

##### *Section 9: Lay magistrates*

28. The Review recommended that the criminal justice functions of Justices of the Peace and the office of lay panellist should be undertaken by holders of the new office of lay magistrate. This section creates the office of lay magistrate and provides for the Lord Chancellor to appoint lay magistrates to each county court division in Northern Ireland (“county court division” is defined in *subsection (14)*).
29. *Subsection (2)* provides that a person may not be appointed as a lay magistrate unless he has either completed a course of training approved by the Lord Chancellor or has undertaken in writing to attend such a course of training. *Subsection (3)* requires all appointees to the office of lay magistrate to complete their training within a year of appointment, unless given leave by the Lord Chancellor to take longer.
30. The Lord Chancellor can make further provision about eligibility to be appointed as a lay magistrate by regulations, including that a person may not be appointed if he is a bankrupt or lives more than a prescribed distance outside the county court division to which the appointment relates (*subsections (4) and (5)*). *Subsection (10)* provides for the Lord Chancellor to be able to remove a lay magistrate. On devolution, this provision will be repealed and lay magistrates will be removed under section 7 by the First Minister and deputy First Minister on the recommendation of a tribunal.

##### *Section 10: Transfer of functions of justices of the peace*

31. This section provides for certain functions to transfer from justices of the peace to lay magistrates and gives effect to Schedule 4. Schedule 4 lists those functions which will remain with justices of the peace or be transferred to resident magistrates. Functions which may be exercised by either justices of the peace or resident magistrates are also listed. *Subsections (2) and (3)* provide that lay magistrates, when sitting out of petty sessions, may only exercise functions of magistrates’ courts relating to proceedings for the issuing of a warrant or summons, proceedings for the remand of an accused who has not previously been remanded for the offence or binding over proceedings, together with a number of ancillary powers, such as powers to deal with misbehaviour in court and certain powers to grant legal aid. The Lord Chancellor can amend this list of functions by order (*subsection (4)*).

##### *Section 11: Transfer of functions of lay panellists*

32. This section provides for the functions of lay panellists to be discharged by lay magistrates. Lay magistrates will replace lay panellists, sitting as part of a juvenile court and sitting as assessors in a county court dealing with appeals from juvenile courts.

*These notes refer to the Justice (Northern Ireland) Act  
2002 (c.26) which received Royal Assent on 24th July 2002*

*Subsection (3)* allows provision to be made by rules of court authorising lay magistrates to discharge those functions of a court of summary jurisdiction which at present can be discharged by a lay panellist.