

1977 No. 114

SUPREME COURT, NORTHERN IRELAND

FERMANAGH AND TYRONE ASSIZES

Fermanagh and Tyrone Assize Order 1977

Made 27th April 1977

Coming into operation 16th May 1977

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 commencement

1. This order may be cited as the Fermanagh and Tyrone Assize Order 1977 and shall come into operation on 16th May 1977.

Interpretation

2. In this order—

“statutory provision” has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954(b);

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

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

“the united assize under-sheriff” has the meaning given by article 6.

Counties united for purposes of spring and autumn assizes

3. The counties of Fermanagh and Tyrone shall for the purposes of the spring and autumn assizes be united together and form one county under the name of the United Assize County of Fermanagh and Tyrone (in this order referred to as “the united assize county”).

Place for holding spring and autumn assizes

4. The spring and autumn assizes for the united assize county shall be held at the courthouse of the county of Tyrone at Omagh.

Jurisdiction of court for the united assize county

5.—(1) The court for the united assize county shall be held as aforesaid under a commission of assize, oyer and terminer and general gaol delivery for the despatch of civil and criminal business for the united assize county and any reference in any statutory provision to a court of assize or to the assizes for a county or to a judge at the assizes shall, in relation to a court of assize or assizes to be held in the spring or autumn in or for the county of Tyrone or the county of Fermanagh, be construed as a reference to the court for the united assize county or to a judge at such court.

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

(b) 1954 c. 33 (N.I.)

(2) Without prejudice to the generality of paragraph (1)—

- (a) nothing in this order shall derogate from the jurisdiction conferred on a judge of assize by the County Court Appeals Act (Northern Ireland) 1964(c);
- (b) the court for the united assize county shall have jurisdiction to try any person—
- (i) committed for trial before the commencement of this order 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(d)); or
- (ii) against whom an indictment has been presented in either county united in the united assize county, the trial of which stands postponed; or
- (iii) 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(e),

for any indictable offence committed or deemed to have been committed within the county of Fermanagh or the county of Tyrone.

(3) The court for the united assize county 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.

(4) Any indictment presented at the court for the united assize county, 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 in or for the county where the offence is charged or is committed or is deemed to have been committed.

(5) The reference in paragraph (4) to a future court of oyer and terminer and general gaol delivery in or for the county where the offence is charged or is committed or is deemed to have been committed includes a reference to a future court for the united assize county.

United assize under-sheriff

6.—(1) Subject to this order, the under-sheriff for the united assize county at the spring or autumn assizes shall be such one of the under-sheriffs of County Fermanagh or County Tyrone or such other under-sheriff as the Secretary of State may designate and is in this order referred to as "the united assize under-sheriff".

(2) Subject to this order, the united assize under-sheriff shall have all the functions which an under-sheriff has in relation to an assize for a county.

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

(4) Precepts and other documents relating to the united assizes shall be addressed to the united assize under-sheriff 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.

Juries

7. The precept of the judge or judges to the united assize 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 united assizes and for the purposes of article 5(3) of the Juries (Northern Ireland) Order 1974(f) the court for the united assize county shall be deemed to be situated in the areas served by the clerks of the Crown and peace for counties Fermanagh and Tyrone.

Prisoners

8.—(1) The precepts of the judges to the united assize 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 Omagh 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 united assizes accordingly.

Duties of officers, etc.

9.—(1) All prison governors, constables, officers and other persons under an obligation to attend the assizes for the county of Fermanagh or the county of Tyrone shall attend at the united 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 certify, transmit or deliver it to the court for the united assize county or the proper officer thereof.

The clerk of the Crown and peace

10. The clerk of the Crown and peace for the united assize county at the spring or autumn assizes shall be such one of the clerks of the Crown and peace for the county of Fermanagh or the county of Tyrone or such other clerk of the Crown and peace as the going judges of assize may designate 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.

Entries in Crown Book relating to previous trial

11.—(1) Where a case is for trial at the united assizes which has previously been before a court of assize or county court in or for the county of Fermanagh 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 united assize county at least three days before the first day of the united 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

12.—(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 bound before the commencement of this order to surrender or take his trial at any assizes or county court to be held 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 united assizes.

(2) Such a person shall be bound to appear at the united 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

13.—(1) Not less than ten days before the day appointed for the opening of the united 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 united assize county.

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

Roy Mason

One of Her Majesty's Principal
Secretaries of State.

Northern Ireland Office
27th April 1977

EXPLANATORY NOTE

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

This order unites the counties of Fermanagh and Tyrone for the purposes of the spring and autumn assizes and provides that such assizes shall be held at the courthouse of the county of Tyrone at Omagh.