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Changes to legislation: There are currently no known outstanding effects for the Public Services Ombudsman Act (Northern Ireland) 2016, SCHEDULE 6. (See end of Document for details)

SCHEDULES

SCHEDULE 6

Section 58.

AMENDMENTS CONSEQUENT UPON OMBUDSMAN BEING NORTHERN IRELAND JUDICIAL APPOINTMENTS OMBUDSMAN

- 1 The Justice (Northern Ireland) Act 2002 is amended as follows.
- 2 In section 88 (interpretation) insert at the appropriate place in alphabetical order—
 - ““the Northern Ireland Public Services Ombudsman” has the meaning given by the Public Services Ombudsman Act (Northern Ireland) 2016,”.
- 3 Schedule 3A (The Northern Ireland Judicial Appointments Ombudsman) is amended as follows.
- 4 For paragraph 1 substitute—

“Circumstances where Ombudsman ineligible to exercise specified functions

- 1.—(1) The Ombudsman is ineligible to exercise specified functions if either sub-paragraph (2) or (3) applies.
 - (2) This sub-paragraph applies where the Ombudsman—
 - (a) is engaged in political activity as a member of a political party; or
 - (b) has ever been any of these—
 - (i) a practising barrister in England and Wales;
 - (ii) a practising solicitor of the Senior Courts of England and Wales;
 - (iii) a practising advocate in Scotland;
 - (iv) a practising solicitor in Scotland;
 - (v) a practising member of the Bar of Northern Ireland;
 - (vi) a practising solicitor of the Court of Judicature of Northern Ireland;
 - (vii) the holder of a listed judicial office.
 - (3) This sub-paragraph applies where the Ombudsman considers—

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- (a) that the Ombudsman has exercised functions that appear to be of a judicial nature and such as to make it inappropriate for the Ombudsman to exercise specified functions; or
 - (b) that past service in a capacity mentioned in sub-paragraph (5) makes it inappropriate for the Ombudsman to exercise specified functions.
- (4) As part of the considerations under sub-paragraph (3), the Ombudsman may consult the Department of Justice.
- (5) The service referred to in sub-paragraph (3)(b) is service as any of these –
- (a) a Commissioner;
 - (b) a member of staff of the Commission;
 - (c) a person employed in the civil service of the State.

Ombudsman to direct a person to exercise specified functions

1A.—(1) Sub-paragraph (2) applies where—

- (a) the provisions of this Act require the Ombudsman to exercise a specified function; but
- (b) the Ombudsman is, under paragraph 1, ineligible to exercise that function.

(2) The Ombudsman must direct—

- (a) a member of the office of the Northern Ireland Public Services Ombudsman; or
- (b) any other appropriate person;

to exercise that function on behalf of the Ombudsman.

(3) The Ombudsman may direct—

- (a) different persons to exercise different functions,
- (b) different persons to exercise the same function.

(4) Where the Ombudsman has directed a person to exercise a specified function, that person is to be treated, for the purposes of exercising that function, as the Ombudsman.

Persons whom the Ombudsman must not direct

1B.—(1) The Ombudsman must not direct a person under paragraph 1A if either sub-paragraph (2) or (3) applies.

(2) This sub-paragraph applies where—

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- (a) the person is employed in the civil service of the State;
- (b) the person is a member of the House of Commons;
- (c) the person is a member of the Northern Ireland Assembly;
- (d) the person is engaged in political activity as a member of a political party;
- (e) the person has ever been any of these—
 - (i) a practising barrister in England and Wales;
 - (ii) a practising solicitor of the Senior Courts of England and Wales;
 - (iii) a practising advocate in Scotland;
 - (iv) a practising solicitor in Scotland;
 - (v) a practising member of the Bar of Northern Ireland;
 - (vi) a practising solicitor of the Court of Judicature of Northern Ireland;
 - (vii) the holder of a listed judicial office.
- (3) This sub-paragraph applies where the Ombudsman considers—
 - (a) that the person has exercised functions that appear to be of a judicial nature and such as to make it inappropriate for the person to exercise specified functions; or
 - (b) that past service in a capacity mentioned in sub-paragraph (5) make it inappropriate for the person to exercise specified functions.
- (4) As part of the considerations under sub-paragraph (3), the Ombudsman may consult the Department of Justice.
- (5) The service referred to in sub-paragraph (3)(b) is service as any of these—
 - (a) a Commissioner;
 - (b) a member of staff of the Commission;
 - (c) a person employed in the civil service of the State.

Meaning of “specified functions” and “practising”

1C.—(1) For the purposes of this Schedule, the functions of the Ombudsman set out in the following provisions are specified functions—

- (a) section 8;
- (b) in section 9D, subsections (2), (3) and (4);
- (c) section 9E;
- (d) section 9F;

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(e) section 9H.

(2) In section 7(6A)(c), the function of convening a tribunal by the Ombudsman is a specified function for the purposes of this Schedule, but the person to be notified by the Lord Chief Justice under that subsection is the Ombudsman and not a person that the Ombudsman has directed to exercise a specified function.”

5 Omit the following—

- (a) paragraphs 3, 4 and 5 (term of office etc. of Ombudsman),
- (b) paragraph 6 (salary, allowances and expenses of Judicial Appointments Ombudsman, and
- (c) paragraph 7 (acting Judicial Appointments Ombudsman).

6 For paragraph 10(3) (approval of arrangements for assistance) substitute—

“(3) In making arrangements, the Ombudsman must have regard to the desirability of keeping fees broadly in line with those paid by the civil service of Northern Ireland.”

7 Omit paragraph 11 (arrangements by the Department of Justice).

8 In paragraph 12(1)(a) (delegation of functions) omit “or 11”.

9 Omit paragraph 13 (financial provisions and directions).

10 Omit paragraph 14 (code of conduct).

11 In paragraph 15 (reports)—

- (a) in sub-paragraph (1) for “provide to the Department of Justice” substitute “lay before the Assembly”,
- (b) omit sub-paragraphs (2) to (4),
- (c) in sub-paragraph (5) for “under sub-paragraph (4)” substitute “before the Assembly”, and
- (d) in sub-paragraph (6) for “(4)” substitute “(1)”.

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