



Justice (Northern Ireland) Act 2002

2002 CHAPTER 26

PART 1

THE JUDICIARY

Appointment and removal

2 Introductory

- (1) Sections 3 to 8 make provision about appointment to and removal from—
 - ^{F1}(a)
 - (b) the offices listed in Schedule 1.
- (2) The [^{F2}Lord Chancellor] may by order amend Schedule 1 by—
 - (a) adding an office (other than the office of Lord Chief Justice or Lord Justice of Appeal),
 - (b) omitting an office, or
 - (c) altering the description of an office.
- (3) No order under subsection (2) may be made without the agreement of the Lord Chief Justice.
- (4) An order under subsection (2) may make appropriate consequential amendments in any enactment or instrument (whenever passed or made).
- (5) In this Act—
 - ^{F3}...
 - “listed judicial office” means an office listed in Schedule 1, and
 - “protected judicial office” means the office of Lord Chief Justice, the office of Lord Justice of Appeal or a listed judicial office.

Status: Point in time view as at 01/04/2013. This version of this cross heading contains provisions that are prospective.

Changes to legislation: There are currently no known outstanding effects for the Justice (Northern Ireland) Act 2002, Cross Heading: Appointment and removal. (See end of Document for details)

Textual Amendments

- F1** S. 2(1)(a) omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 1(2)**; S.I. 2010/812, art. 2
- F2** Words in s. 2(2) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), **Sch. 1 para. 1**; S.R. 2005/282, art. 3
- F3** Words in s. 2(5) omitted (12.4.2010) by virtue of Department of Justice Act (Northern Ireland) 2010 (c. 3), s. 3(2), **Sch. para. 14(1)**; S.R. 2010/147, art. 2(2)

Modifications etc. (not altering text)

- C1** S. 2(2): transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 17 para. 17** (with arts. 28-31)

3 Judicial Appointments Commission

- (1) There is to be a body corporate known as the Northern Ireland Judicial Appointments Commission.
- (2) The Commission is to consist of—
 - (a) a chairman, and
 - (b) twelve other members appointed by the [^{F4}Lord Chancellor].
- (3) Schedule 2 makes further provision about the Commission.
- (4) The Lord Chief Justice is to be the chairman of the Commission; but for any time during which—
 - (a) the office of Lord Chief Justice is vacant, or
 - (b) he is not available,
 the senior Lord Justice of Appeal who is available is to act as the chairman (whether or not he is already a member).
- (5) The following are to be appointed as the other members—
 - (a) five persons nominated by the Lord Chief Justice (referred to in this section and Schedule 2 as “judicial members”),
 - (b) a barrister nominated by the General Council of the Bar of Northern Ireland and a solicitor nominated by the Law Society of Northern Ireland (so referred to as “legal profession members”), and
 - (c) five persons who do not hold (and have never held) a protected judicial office and are not (and have never been) barristers or solicitors (so referred to as “lay members”);
 and a reference in Schedule 2 to a non-judicial member is to a member who is either a legal profession member or a lay member.
- (6) The judicial members are to be—
 - (a) a Lord Justice of Appeal,
 - (b) a judge of the High Court,
 - (c) a county court judge,
 - (d) a resident magistrate, and
 - (e) a lay magistrate.

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(7) A person may not be appointed to be a lay member unless he has declared in writing his commitment to non-violence and exclusively peaceful and democratic means.

[^{F5}(8) It is the duty of—

(a) the Lord Chancellor, and

(b) those responsible for making nominations under subsection (5)(a) and (b),

to make such arrangements in connection with the exercise of their functions under this section as will, so far as is practicable, secure that the membership of the Commission is reflective of the community in Northern Ireland.]

Textual Amendments

F4 Words in s. 3(2)(b) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), **Sch. 1 para. 2**; S.R. 2005/282, **art. 3**

F5 S. 3(8) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), **ss. 2(1)**, 19(1); S.R. 2005/282, **art. 3**

Modifications etc. (not altering text)

C2 S. 3(2)(b): transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(2)** (with arts. 15(6), 28-31)

C3 S. 3(8)(a): transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **15(2)** (with arts. 15(6), 28-31)

PROSPECTIVE

^{F6}4 Appointment to most senior judicial offices

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Textual Amendments

F6 S. 4 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 2**; S.I. 2010/812, **art. 2**

[^{F7}5 Appointment to listed judicial offices

Schedule 3 (which is about the making of appointments to listed judicial offices) has effect.]

Textual Amendments

F7 S. 5 substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 3** (with Sch. 5 para. 12); S.I. 2010/812, **art. 2**

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[^{F8}5A Disclosure of information to the Commission

- (1) Information which is held by or on behalf of a permitted person (whether obtained before or after this section comes into force) may be disclosed to the Commission or a committee of the Commission for the purposes of selection under [^{F9}Schedule 3].
- (2) A disclosure under this section is not to be taken to breach any restriction on the disclosure of information (however imposed).
- (3) But nothing in this section authorises the making of a disclosure—
 - (a) which contravenes the Data Protection Act 1998, or
 - (b) which is prohibited by Part 1 of the Regulation of Investigatory Powers Act 2000.
- (4) This section does not affect a power to disclose which exists apart from this section.
- (5) The following are permitted persons—
 - (a) a chief officer of police of a police force in England and Wales;
 - [^{F10}(b) the chief constable of the Police Service of Scotland;]
 - (c) the Chief Constable of the Police Service of Northern Ireland;
 - (d) the Director General of the National Criminal Intelligence Service;
 - (e) the Director General of the National Crime Squad;
 - (f) the Commissioners of Inland Revenue;
 - (g) the Commissioners of Customs and Excise.
- (6) The Lord Chancellor may by order designate as permitted persons other persons who exercise functions which he considers are of a public nature (including a body or person discharging regulatory functions in relation to any description of activities).
- (7) Information must not be disclosed under this section on behalf of the Commissioners of Inland Revenue or on behalf of the Commissioners of Customs and Excise unless the Commissioners concerned authorise the disclosure.
- (8) The power to authorise a disclosure under subsection (7) may be delegated (either generally or for a specific purpose)—
 - (a) in the case of the Commissioners of Inland Revenue, to an officer of the Board of Inland Revenue,
 - (b) in the case of the Commissioners of Customs and Excise, to a customs officer.
- (9) For the purposes of this section a customs officer is a person commissioned by the Commissioners of Customs and Excise under section 6(3) of the Customs and Excise Management Act 1979.]

Textual Amendments

- F8** S. 5A inserted (15.6.2005 for specified purposes, 12.4.2010 in so far as not already in force) by Constitutional Reform Act 2005 (c. 4), ss. 123(2), 148(1); S.I. 2005/1431, art. 2(a); S.I. 2010/883, art. 2(b)
- F9** Words in s. 5A(1) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 4**; S.I. 2010/812, art. 2
- F10** S. 5A(5)(b) substituted (1.4.2013) by The Police and Fire Reform (Scotland) Act 2012 (Consequential Provisions and Modifications) Order 2013 (S.I. 2013/602), art. 1(2), **Sch. 2 para. 38**

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Modifications etc. (not altering text)

- C4** S. 5A applied by 1998 c. 47, Sch. 11 para. 2A(5) (as inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 4; S.I. 2010/812, art. 2)
- C5** S. 5A(6): transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 15(2) (with arts. 15(6), 28-31)

PROSPECTIVE

^{F11}6 Removal from most senior judicial offices

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Textual Amendments

- F11** S. 6 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 3 para. 5; S.I. 2010/812, art. 2

7 Removal from listed judicial offices

- (1) A person holding a listed judicial office may be removed from office (and suspended from office pending a decision whether to remove him) but only in accordance with this section.
- (2) The power to remove or suspend him is exercisable by the [^{F12}Lord Chief Justice].
- (3) He may only be removed if a tribunal convened under section 8 has reported to the [^{F13}Lord Chief Justice] recommending that he be removed on the ground of misbehaviour or inability to perform the functions of the office.
- (4) He may only be suspended if the tribunal, at any time when it is considering whether to recommend his removal, has recommended to [^{F14}the Lord Chief Justice] that he be suspended.

^{F15}(5)

- (6) If he is suspended he may not perform any of the functions of the office until the decision whether to remove him has been taken (but his other rights as holder of the office are unaffected).

[^{F16}(6A) If the Lord Chief Justice does not remove or suspend a person (“P”) in accordance with a recommendation as mentioned in subsection (3) or (4), the Lord Chief Justice must notify the following of the Lord Chief Justice’s reasons for not removing or suspending P—

- (a) P;
- (b) the tribunal;
- (c) if the tribunal was convened by the Northern Ireland Judicial Appointments Ombudsman, the Ombudsman.]

- (7) Nothing in subsections (1) to [^{F17}(6A)] applies to a judge of the High Court appointed before the coming into force of this section (as to the removal and suspension of whom see [^{F18}section 12C] of the Judicature (Northern Ireland) Act 1978 (c. 23) ^{F19}...).

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- (8) But, subject to that, those subsections apply whatever the date of a person's appointment.

Textual Amendments

- F12** Words in s. 7(2) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(2)**; S.I. 2010/812, art. 2
- F13** Words in s. 7(3) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(3)**; S.I. 2010/812, art. 2
- F14** Words in s. 7(4) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(4)**; S.I. 2010/812, art. 2
- F15** S. 7(5) omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(5)**; S.I. 2010/812, art. 2
- F16** S. 7(6A) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(6)**; S.I. 2010/812, art. 2
- F17** Words in s. 7(7) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(7)(a)**; S.I. 2010/812, art. 2
- F18** Words in s. 7(7) substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(7)(b)**; S.I. 2010/812, art. 2
- F19** Words in s. 7(7) omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 6(7)(c)**; S.I. 2010/812, art. 2

Commencement Information

- I1** S. 7(1)-(4)(6)-(8) in force at 12.4.2010 by S.R. 2010/113, art. 2, **Sch. para. 1**

PROSPECTIVE

[F20]8 Tribunals for considering removal

- (1) A tribunal to consider the removal of the holder of a listed judicial office may be convened—
- (a) by the Lord Chief Justice after consulting the Northern Ireland Judicial Appointments Ombudsman, or
 - (b) by the Ombudsman after consulting the Lord Chief Justice.
- (2) A tribunal is to consist of—
- (a) a Lord Justice of Appeal or a judge of the High Court,
 - (b) a person who holds an office within section 3(6)(a) to (e), and
 - (c) a lay member of the Commission (see section 3(5)(c)).
- (3) The persons within subsection (2)(a) and (b) are to be selected by the Lord Chief Justice and the person within subsection (2)(c) is to be selected by the Ombudsman.
- (4) Unless the Commission otherwise agrees, the persons within subsection (2)(a) and (b) must be judicial members of the Commission (see section 3(5)(a)).
- (5) The person within subsection (2)(a) is to be the chair of the tribunal.
- (6) The tribunal's procedure is to be determined by the Lord Chief Justice.

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(7) The [^{F21}Department of Justice] may pay a member of a tribunal any such allowances or fees as it may determine.]

Textual Amendments

F20 S. 8 substituted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 7**; S.I. 2010/812, art. 2

F21 Words in s. 8(7) substituted (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), s. 3(2), **Sch. para. 14(2)**; S.R. 2010/147, art. 2(2)

^{x19} Lay magistrates

- (1) The [^{F22}Commission] must, for each county court division, appoint persons to be lay magistrates for the division.
- (2) A person may not be appointed to be a lay magistrate unless—
 - (a) he has completed a course of training [^{F23}approved by the Lord Chief Justice after consultation with the [^{F24}Department of Justice], or]
 - (b) he has given an undertaking in writing to attend such a course of training.
- (3) It is a condition of the appointment of a person under subsection (2)(b) that he will complete such a course of training within the period of one year beginning with the date of his appointment or [^{F25}such longer period as the Lord Chief Justice may, after consulting the [^{F26}Department of Justice], allow.]
- (4) The [^{F27}Department of Justice] may [^{F28}, after consultation with the Lord Chief Justice,] by order make further provision about eligibility for appointment to be a lay magistrate.
- (5) The provision which may be made by an order under subsection (4) includes (in particular) provision that a person may not be appointed to be a lay magistrate—
 - (a) if he does not reside or work in, or within a prescribed distance of, the county court division to which the appointment relates,
 - (b) if he, or a person related to or otherwise connected with him in a prescribed manner, holds an office of a prescribed description, has an occupation of a prescribed description or has been selected as a candidate for election to a prescribed body,
 - (c) if a bankruptcy order has been made against him, or his estate has been sequestered, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
 - (d) if he has been convicted of a prescribed offence,unless [^{F29}, after consultation with the Lord Chief Justice,]the [^{F30}Department of Justice] otherwise determines in the case of a particular person.
- (6) “Prescribed” means prescribed in the order.
- (7) No act by a person appointed to be a lay magistrate is invalidated by reason only that he is not a lay magistrate because he was not eligible to be appointed.
- (8) A lay magistrate ceases to hold office on the day on which he attains the age of 70.

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- (9) No act by a person who has been a lay magistrate is invalidated by reason only that he has ceased to hold office under subsection (8).
- (10) ^{F31}
- [^{F32}(11) The [^{F33}Department of Justice] must pay to lay magistrates any such allowances as it may determine.]
- (12) The Lord Chief Justice, Lords Justices of Appeal, judges of the High Court and county court judges may exercise any function of a lay magistrate (in relation to any matter arising within any county court division).
- ^{F34}(13)
- (14) “County court division” means a division specified under Article 3(1) of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)).

Editorial Information

- X1** The omission of the cross-heading before s. 9 on 25.9.2006 gives rise to a change in the structure of this legislation on legislation.gov.uk which breaks the continuity of historical versions of s. 9.

Textual Amendments

- F22** Word in s. 9(1) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\), s. 5\(7\), Sch. 4 para. 33\(2\)](#) (with [Sch. 5 para. 16](#)); S.I. 2010/812, art. 2
- F23** Words in s. 9(2)(a) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 5 para. 117\(2\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12
- F24** Words in s. 9(2)(a) substituted (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\), s. 3\(2\), Sch. para. 14\(2\)](#); S.R. 2010/147, art. 2(2)
- F25** Words in s. 9(3) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 5 para. 117\(3\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12
- F26** Words in s. 9(3) substituted (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\), s. 3\(2\), Sch. para. 14\(2\)](#); S.R. 2010/147, art. 2(2)
- F27** Words in s. 9(4) substituted (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\), s. 3\(2\), Sch. para. 14\(2\)](#); S.R. 2010/147, art. 2(2)
- F28** Words in s. 9(4) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 5 para. 117\(4\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12
- F29** Words in s. 9(5) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 5 para. 117\(5\)](#); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12
- F30** Words in s. 9(5) substituted (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\), s. 3\(2\), Sch. para. 14\(2\)](#); S.R. 2010/147, art. 2(2)
- F31** S. 9(10) repealed (3.4.2006) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), ss. 86, 87\(1\), Sch. 13](#); S.R. 2006/124, art. 2, Sch.
- F32** S. 9(11) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\), s. 5\(7\), Sch. 4 para. 33\(4\)](#) (with [Sch. 5 para. 16](#)); S.I. 2010/812, art. 2
- F33** Words in s. 9(11) substituted (12.4.2010) by [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\), s. 3\(2\), Sch. para. 14\(2\)](#); S.R. 2010/147, art. 2(2)
- F34** S. 9(13) repealed (1.3.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), s. 87\(1\), Sch. 13](#); S.R. 2010/52, art. 2(e)

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Changes to legislation: There are currently no known outstanding effects for the Justice (Northern Ireland) Act 2002, Cross Heading: Appointment and removal. (See end of Document for details)

Commencement Information

- I2** S. 9 wholly in force at 1.4.2005: s. 9 not in force at Royal Assent see s. 87: s. 9(4)(5)(6)(14) in force at 15.10.2002 by S.R 2002/319, art. 2, Sch.; s. 9(1)-(3)(7)-(11)(13) in force at 1.9.2004 by [S.R. 2004/301](#), [art. 2](#); s. 9(12) in force at 1.4.2005 by [S.R. 2005/109](#), [art. 2](#), [Sch.](#)

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