



Justice (Northern Ireland) Act 2002

2002 CHAPTER 26

PART 6

SUPPLEMENTARY

82 Excepted matters: judicial office-holders

In Schedule 2 to the Northern Ireland Act 1998 (c. 47) (excepted matters), in paragraph 11 (appointment and removal of holders of certain judicial offices)—

- (a) for “appointment and removal” substitute “ determination of the remuneration, superannuation and other terms and conditions of service (other than those relating to removal from office) ”, and
- (b) for “, the Chief and other Child Support Commissioners for Northern Ireland and the President and other members of the Lands Tribunal for Northern Ireland” substitute “ and the Chief and other Child Support Commissioners for Northern Ireland ”.

Commencement Information

- II** [S. 82](#) in force at 1.3.2010 by [S.R. 2010/52](#), [art. 2\(b\)](#)

^{F1}83 Reserved matters: new institutions

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Textual Amendments

- F1** [S. 83](#) omitted (12.4.2010) by virtue of [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), [27\(2\)\(a\)](#) (with arts. 28-31)

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84 Assembly Acts about judiciary, law officers and prosecutions

- (1) In section 7(1) of the Northern Ireland Act 1998 (entrenched enactments), insert at the end “and
- (d) section 1 and section 84 of the Justice (Northern Ireland) Act 2002.”
- (2) A Bill containing any provision which deals (otherwise than incidentally) with—
- (a) appointment to, or removal from, a protected judicial office (including the subject matter of section 19),
- (b) the subject matter of section 12(1), or
- (c) the subject matter of Part 2,
- may not be passed by the Assembly without cross-community support.
- (3) “Cross-community support” has the meaning given by section 4(5) of the Northern Ireland Act 1998 (c. 47).
- (4) “Passed”, in relation to a Bill, means passed at the final stage (at which the Bill can be passed or rejected but not amended).

Commencement Information

- I2** S. 84 partly in force; s. 84 not in force at Royal Assent, see s. 87; s. 84(1) in force at 16.4.2007 by S.R. 2007/237, **art. 2, Sch.**
- I3** S. 84(2)-(4) in force at 12.4.2010 by S.R. 2010/113, **art. 2, Sch. para. 16**

85 Minor and consequential amendments

- (1) Schedule 12 makes minor and consequential amendments in enactments and instruments.
- (2) The [^{F2}Department of Justice] may by order make in any other enactment or instrument (whenever passed or made) such amendments as appear to [^{F3}the Department of Justice] to be appropriate in consequence of any provision made by Part 4.

Textual Amendments

- F2** Words in s. 85(2) substituted (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. 13 para. 20(2)(a)** (with arts. 28-31)
- F3** Words in s. 85(2) substituted (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. 13 para. 20(2)(b)** (with arts. 28-31)

Commencement Information

- I4** S. 85 partly in force: s. 85 not in force at Royal Assent see s. 87; s. 85(1) in force at 15.10.2002 for certain purposes by S.R. 2002/319, **art. 2, Sch.**; s. 85 in force for certain further purposes at 1.11.2003 by S.R. 2003/416, **art. 3, s. 85(1)** in force for certain further purposes and s. 85(2) in force at 1.12.2003 by S.R. 2003/488, **art. 2, Sch.**; s. 85(1) in force for certain further purposes at 1.9.2004 by S.R. 2004/301, **art. 2**; s. 85(1) in force for certain further purposes at 1.1.2005 by S.R. 2004/502, **art. 2**; s. 85(1) in force for certain further purposes at 13.6.2005 by S.R. 2005/281, **art. 2, Sch. 1**; s. 85(1) in force for certain further purposes at 30.8.2005 by S.R. 2005/391, **art. 2, Sch.**; s. 85(1) in force for certain further purposes at 3.4.2006 by S.R. 2006/124, **art. 2, Sch.**
- I5** S. 85(1) in force at 12.4.2010 for specified purposes by S.R. 2010/113, **art. 2, Sch. para. 17**

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86 Repeals and revocations

Schedule 13 makes repeals and revocations.

Commencement Information

- I6** S. 86 partly in force: s. 86 not in force at Royal Assent see s. 87: s. 86 in force at 15.10.2002 for certain purposes by S.R. 2002/319, art. 2, Sch.; s. 86 in force for certain further purposes at 1.10.2003 by S.R. 2003/416, art. 2; s. 86 in force for certain further purposes at 1.12.2003 by S.R. 2003/488, art. 2, Sch.; s. 86 in force for certain further purposes at 1.4.2005 by S.R. 2005/109, art. 2, Sch.; s. 86 in force for certain further purposes at 13.6.2005 and 15.6.2005 by S.R. 2005/281, arts. 2(1), 3, Sch. 1 para. 12, Sch. 2 para. 4; s. 86 in force for certain further purposes at 30.8.2005 by S.R. 2005/391, art. 2, Sch.; s. 86 in force for certain further purposes at 3.4.2006 by S.R. 2006/124, art. 2, Sch.
- I7** S. 86 in force at 1.3.2010 for specified purposes by S.R. 2010/52, art. 2(d)
- I8** S. 86 in force at 12.4.2010 for specified purposes by S.R. 2010/113, art. 2, Sch. para. 18

87 Commencement

- (1) The preceding provisions of this Act (with the Schedules) shall not come into force until such day as the Secretary of State [^{F4}or the Department of Justice] may by order appoint.
- (2) An order may appoint different days for different purposes.

Subordinate Legislation Made

- P1** S. 87 power partly exercised: 15.10.2002 appointed for specified provisions by S.R. 2002/319, art. 2; 6.1.2003 appointed for specified provisions by S.R. 2002/405, art. 2; 26.5.2003 appointed for specified provisions by {S.R. 2003/265}, art. 2; 1.10.2003, 1.11.2003 and 19.4.2004 appointed for specified provisions and purposes by {S.R. 2003/416}, arts. 2-4; 1.12.2003 and 18.12.2003 appointed for specified provisions and purposes by {S.R. 2003/488}, arts. 2, 3, Sch.; 1.9.2004 appointed for specified provisions and purposes by {S.R. 2004/301}, art. 2; 1.1.2005 appointed for specified provisions and purposes by {S.R. 2004/502}, art. 2; 1.4.2005 appointed for specified provisions and purposes by {S.R. 2005/109}, art. 2, Sch.; different dates appointed for specified provisions and purposes by {S.R. 2005/281}, arts. 2-5, Schs. 1, 2; 30.8.2005 appointed for specified provisions and purposes by {S.R. 2005/391}, art. 2, Sch.; 3.4.2006 appointed for specified provisions and purposes by {S.R. 2006/124}, art. 2, Sch.; 16.4.2007 appointed for specified provisions and purposes by {S.R. 2007/237}, art. 2, Sch.

Textual Amendments

- F4** Words in s. 87(1) inserted (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. 13 para. 21(2) (with arts. 28-31)

88 Interpretation

In this Act (unless the context otherwise requires)—

“amendment” includes repeal or revocation and “amend” is to be construed accordingly,

“coroner” and “deputy coroner” mean a coroner and deputy coroner appointed under section 2 of the Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.)),

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“county court judge” means a judge appointed under section 102 of the County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.)) and “deputy county court judge” means a deputy judge appointed under section 107 of that Act,
 “the Court Service” means the Northern Ireland Court Service,
 “enactment” includes any provision of Northern Ireland legislation,
^{F5}... “listed judicial office” and “protected judicial office” have the meanings given by section 2(5),
 “Lord Chief Justice” means the Lord Chief Justice of Northern Ireland,
 “Lord Justice of Appeal” means a person styled as such under section 3 of the Judicature (Northern Ireland) Act 1978 (c. 23), and
^{F6}“the Northern Ireland Public Services Ombudsman” has the meaning given by the Public Services Ombudsman Act (Northern Ireland) 2016.]

Textual Amendments

- F5** Words in s. 88 omitted (N.I.) (12.4.2010) by virtue of [Department of Justice Act \(Northern Ireland\) 2010 \(c. 3\), s. 3\(2\), Sch. para. 14\(3\)](#); S.R. 2010/147, art. 2(2)
- F6** Words in s. 88 inserted (N.I.) (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 6 para. 2](#)

89 Transitional and savings

- (1) The Secretary of State [^{F7}or the Department of Justice] may by order make any transitional provisions or savings which appear appropriate in connection with the coming into force of any provision of this Act.
- (2) The persons who, immediately before the date on which section 30 comes into force, hold the offices of Director of Public Prosecutions for Northern Ireland and Deputy Director of Public Prosecutions for Northern Ireland under the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)) shall be treated as if—
 - (a) they had been appointed to those offices under that section on that date, and
 - (b) the Secretary of State had made a determination under subsection (9) of that section for the making of payments to or in respect of them on and after that date on the same terms as that on which payments were so made immediately before that date.
- (3) An order under subsection (1) may include provision for the transfer to the staff of the Public Prosecution Service for Northern Ireland of such persons employed by any authority wholly or mainly in connection with the exercise of functions relating to the prosecution of offences as are specified in the order.
- (4) If on the coming into force of subsection (1) of section 31 it is not reasonably practicable for the Director to take over the conduct of all proceedings of the description specified in that subsection, he is under a duty to take over the conduct of only such proceedings of that description as it is reasonably practicable for him to conduct until the earlier of—
 - (a) the time when it is first reasonably practicable for him to take over the conduct of all proceedings of that description, and
 - (b) the end of the period of five years beginning with the day on which that subsection comes into force.

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- (5) If section 35 comes into force before section 10, the reference in subsection (2) of section 35 to a lay magistrate has effect, until section 10 comes into force, as a reference to a justice of the peace.
- (6) If section 44 comes into force before section 41, subsection (1)(d) of section 44 has effect, until section 41 comes into force, as if it also referred to the presentation of an indictment under section 2(2)(f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 (c. 15 (N.I.)).
- (7) If sections 45 to 49 come into force before section 29, the references in those sections to the Public Prosecution Service for Northern Ireland have effect, until that section comes into force, as references to the Office of the Director of Public Prosecutions for Northern Ireland.
- (8) No order may be made under Article 36A of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) in relation to an offence committed before the coming into force of section 54; and no order may be made under Article 36E of that Order in relation to an offence committed before the coming into force of section 55.
- (9) If section 56 comes into force before section 10, the references in Articles 44D(5) and 44F(1) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) (inserted by section 56) to a lay magistrate have effect, until section 10 comes into force, as references to a justice of the peace.
- (10) No reference may be made under Article 10A of the Criminal Justice (Children) (Northern Ireland) Order 1998 in relation to an offence committed before the coming into force of section 58; and no reference may be made under Article 33A of that Order in relation to an offence committed before the coming into force of section 59.
- (11) If section 58 comes into force before section 41, paragraph (5)(d) of Article 10B of the Criminal Justice (Children) (Northern Ireland) Order 1998 (inserted by section 58) has effect, until section 41 comes into force, as if it also referred to the presentation of an indictment under section 2(2)(f) of the Grand Jury (Abolition) Act (Northern Ireland) 1969 (c. 15 (N.I.)).

Textual Amendments

- F7** Words in s. 89(1) inserted (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. 13 para. 22\(2\)](#) (with arts. 28-31)

90 Statutory rules

- (1) Any power of—
 - (a) the Lord Chancellor,
 - (b) the Secretary of State, or
 - (c) the First Minister and deputy First Minister [^{F8}or the [^{F9}Department of Justice]],to make an order or a scheme (or alterations to a scheme) under this Act shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).

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- ^{F10}(1A) No order containing (whether or not together with other provision) provision made by virtue of section 2(2)(b)^{F11}, 9(4)], 19(4)(b), 46(6)(a) or (b) or 72(1), (3), (7) or (8) shall be made unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.
- (1B) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (1A) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.]
- (2) ^{F12}
- (3) ^{F12}
- (4) No order containing (whether or not together with other provision) provision made by virtue of ^{F13}section 78] shall be made unless a draft of the order has been laid before, and approved by a resolution of, each House of Parliament.
- (5) The following instruments—
- (a) an order under section ^{F14}2(2)(a) or (c),]^{F15}5A(6),] 10(4), 12(3), 19(4)(a) or (c), ^{F16}... 46(6)(c), 63(2), 72(2) or 85(2), Schedule 4 or paragraph 7(3) of Schedule 8, and
- (b) a scheme (or alterations to a scheme) under section 68 ^{F17}or 69A], shall, unless a draft has been approved by a resolution of ^{F18}the Northern Ireland Assembly, be subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)].
- ^{F19}(6) An order under section 28(2) shall be subject to annulment in pursuance of a resolution of either House of Parliament in the same manner as a statutory instrument; and section 5 of the Statutory Instruments Act 1946 applies accordingly.]

Textual Amendments

- F8** Words in s. 90(1)(c) inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 4 para. 34(2)** (with **Sch. 5 para. 16**); S.I. 2010/812, art. 2
- F9** Words in s. 90(1)(c) substituted (N.I.) (12.4.2010) by Department of Justice Act (Northern Ireland) 2010 (c. 3), s. 3(2), **Sch. para. 14(4)**; S.R. 2010/147, art. 2(2)
- F10** S. 90(1A)(1B) substituted for s. 90(1A) (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. 13 para. 23(a)** (with arts. 28-31)
- F11** Word in s. 90(1A) repealed (N.I.) (31.10.2016) by Justice Act (Northern Ireland) 2015 (c. 9), s. 106(2), **Sch. 1 para. 119(2)**, **Sch. 9 Pt. 1** (with **Sch. 8 para. 1**); S.R. 2016/387, art. 2(k)(m) (with art. 3)
- F12** S. 90(2)(3) repealed (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 18, 19(1), **Sch. 1 para. 4(2)** {**Sch. 4**}; S.R. 2005/282, **art. 3**
- F13** Words in s. 90(4) substituted (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. 13 para. 23(b)** (with arts. 28-31)
- F14** Words in s. 90(5)(a) inserted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), **Sch. 1 para. 4(4)**; S.R. 2005/282, **art. 3**
- F15** Words in s. 90(5)(a) inserted (19.9.2007) by Tribunals, Courts and Enforcement Act 2007 (c. 15), **ss. 61, 148**; S.I. 2007/2709, **art. 2**
- F16** Word in s. 90(5)(a) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 13 para. 23(c)(i)** (with arts. 28-31)

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- F17** Words in s. 90(5)(b) inserted (N.I.) (14.12.2008) by [Domestic Violence, Crime and Victims Act 2004 \(c. 4\)](#), [ss. 46\(4\)](#), 60; S.I. 2008/3065, [art. 2](#)
- F18** Words in s. 90(5) substituted (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. 13 para. 23\(c\)\(ii\)](#) (with arts. 28-31)
- F19** S. 90(6) inserted (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. 13 para. 23\(d\)](#) (with arts. 28-31)

91 Extent

- (1) Subject as follows, the preceding provisions of this Act (with the Schedules) extend to Northern Ireland only.
- (2) Subsection (1) does not apply to any of the following provisions—
- [^{F20}(za) section 1,]
- (a) section 10(6) and paragraphs 5 and 6 of Schedule 4,
- (b) section 22(1), and
- (c) section 27(1),
- and sections 87 to 90 so far as relating to those provisions.
- (3) Any amendment made by this Act, apart from the repeal of sections 4 and 6 of the Promissory Oaths Act 1868 (c. 72), has the same extent as the provision to which it relates.

Textual Amendments

- F20** [S. 91\(2\)\(za\)](#) inserted (8.5.2007) by [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 4\(2\)](#), 148; S.I. 2007/1121, [art. 2](#)

92 Financial provision

There is to be paid out of money provided by Parliament—

- (a) any expenditure incurred by a Minister of the Crown by virtue of this Act, and
- (b) any increase attributable to this Act in the sums payable by virtue of any other Act out of money so provided.

93 Short title

This Act may be cited as the Justice (Northern Ireland) Act 2002.

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