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SCHEDULES

SCHEDULE 1

Section 2

LISTED JUDICIAL OFFICES

Judge of the High Court
Temporary judge of the High Court under section 7(3) of the Judicature (Northern Ireland) Act 1978 (c. 23)
County court judge
Deputy county court judge
Resident magistrate
Deputy resident magistrate
Coroner
Deputy coroner
Statutory officer (within the meaning of section 70(1) of the Judicature (Northern Ireland) Act 1978)
Deputy for a statutory officer under section 74 of that Act
Temporary additional statutory officer under that section
Chief Social Security Commissioner for Northern Ireland
Social Security Commissioner for Northern Ireland
Deputy Social Security Commissioner for Northern Ireland
Chief Child Support Commissioner for Northern Ireland
Child Support Commissioner for Northern Ireland
Deputy Child Support Commissioner for Northern Ireland
President of appeal tribunals (within the meaning of Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)))
Member of the panel of persons to act as members of such appeal tribunals
[^{F1}Member of the panel of persons who may serve as chairmen of the Care Tribunal established by Article 44 of the Health and Personal Social Services (Quality, Improvements and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9))]
[^{F2}Chairman of an Appeal Tribunal for the purposes of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))]
President of the Industrial Tribunals and the Fair Employment Tribunal
Acting President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 12))
Vice-President of the Industrial Tribunals and the Fair Employment Tribunal
Acting Vice-President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998
[^{F3}Member of the panel of chairmen of the Industrial Tribunals]
Member of the panel of chairmen of the Fair Employment Tribunal
President of the Lands Tribunal for Northern Ireland

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Deputy President of the Lands Tribunal for Northern Ireland under section 3(1) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.))

Other member of the Lands Tribunal for Northern Ireland

Temporary member of the Lands Tribunal for Northern Ireland under section 3(2) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964

President of the Special Educational Needs [^{F4}and Disability] for Northern Ireland

Member of the panel of persons who may serve as chairman of that Tribunal

Member of the tribunal established under section 91 of the Northern Ireland Act 1998 (c. 47)

Member of the Mental Health Review Tribunal for Northern Ireland

Lay magistrate

[^{F5}Member of the panel of persons who may serve as chairmen of a tribunal established for the purposes of the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 (S.R. 1997/269)

Chairman of a Tribunal appointed under paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 in its application to Northern Ireland

Member of a Tribunal appointed under paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

President or Deputy President of Pensions Appeal Tribunals appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

Member of the panel of persons to act as chairmen of Reinstatement Committees sitting in Northern Ireland (appointed under paragraph 2(1)(a) of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985)

Member of the panel of persons appointed under section 6(1) of the Tribunals and Inquiries Act 1992 to act as chairmen of tribunals that sit in Northern Ireland

Member of the panel of chairmen of VAT tribunals for Northern Ireland

General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)]

[^{F6} President of the Northern Ireland Valuation Tribunal

Member of the Northern Ireland Valuation Tribunal]

Textual Amendments

- F1** Sch. 1: entry substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 122(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12
- F2** Sch. 1: entry inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 122(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12
- F3** Sch. 1: entry inserted (31.8.2005) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 122(4)**; S.I. 2005/2284, **art. 2**
- F4** Sch. 1: words in entry inserted (1.9.2005) by The Special Educational Needs and Disability (Northern Ireland) Order 2005 (S.I. 2005/1117 (N.I. 6)), arts. 1, 50(1), **Sch. 5 para. 10**; S.R. 2005/336, **art. 2**, Sch.
- F5** Sch. 1: entries inserted (3.4.2006 for certain purposes and 15.6.2006 for certain further purposes) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 122(5)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12; S.I. 2006/1537, **art. 2**
- F6** Sch. 1: entries inserted (18.12.2006) by The Justice (Northern Ireland) Act 2002 (Addition of Listed Judicial Offices etc.) Order 2006 (S.R. 2006/469), **art. 2**

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SCHEDULE 2

Section 3

JUDICIAL APPOINTMENTS COMMISSION

Members' tenure

1 [F7(1) Subject as follows, a judicial member of the Commission holds office for the period specified in his appointment (or re-appointment).

(1A) A person may not be appointed as a judicial member for more than five years at a time; and the aggregate period for which a person may be a judicial member by virtue of his holding any one of the judicial offices mentioned in section 3(6) must not exceed ten years.]

(2) The [F8Lord Chancellor], acting jointly, may terminate the membership of a judicial member on the recommendation of the Lord Chief Justice.

(3) A judicial member may resign by notice in writing to the [F9Lord Chancellor].

Textual Amendments

F7 Sch. 2 para. 1(1)(1A) substituted (15.6.2005) for Sch. 2 para. 1(1) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 2(2), 19(1); S.R. 2005/282, art. 3

F8 Words in Sch. 2 para. 1(2) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(2); S.R. 2005/282, art. 3

F9 Words in Sch. 2 para. 1(3) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(3); S.R. 2005/282, art. 3

2 (1) Subject as follows, a non-judicial member of the Commission holds office for the period specified in his appointment (or re-appointment).

(2) A person may not be appointed as a non-judicial member for more than five years at a time; and the aggregate period for which a person may be a non-judicial member must not exceed ten years.

(3) A non-judicial member may resign by notice in writing to the [F10Lord Chancellor].

(4) The [F11Lord Chancellor] may dismiss a non-judicial member if satisfied that—

- (a) he has without reasonable excuse failed to exercise his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal,
- (b) he has been convicted of a criminal offence,
- (c) a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
- (d) he is otherwise unable or unfit to exercise his functions.

Textual Amendments

F10 Words in Sch. 2 para. 2(3) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(4); S.R. 2005/282, art. 3

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F11 Words in Sch. 2 para. 2(4) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), **Sch. 1 para. 5(5)**; S.R. 2005/282, **art. 3**

Salary etc. of non-judicial members

3 The Commission must pay to or in respect of each non-judicial member of the Commission any such salary or allowances as the [^{F12}Lord Chancellor] may determine.

Textual Amendments

F12 Words in Sch. 2 para. 3 substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), **Sch. 1 para. 5(6)**; S.R. 2005/282, **art. 3**

Staff

4 (1) The Commission may employ staff, but subject to the approval of the [^{F13}Lord Chancellor] as to—

- (a) numbers,
- (b) salary, and
- (c) other terms of employment.

(2) The Commission may make arrangements for securing the provision to it of such assistance by persons employed in—

- (a) the civil service of the United Kingdom,
- (b) the civil service of Northern Ireland, or
- (c) the Court Service,

as it considers appropriate for or in connection with the exercise of its functions.

[^{F14}(3) Employment as a member of staff of the Commission is among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply: and, accordingly, in Schedule 1 to that Act (employments, etc, to which section 1 can apply), at the appropriate place in the list of “Royal Commissions and other Commissions” insert— Northern Ireland Judicial Appointments Commission.]

Textual Amendments

F13 Words in Sch. 2 para. 4(1) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), **Sch. 1 para. 5(7)**; S.R. 2005/282, **art. 3**

F14 Sch. 2 para. 4(3) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), **Sch. 1 para. 5(8)**; S.R. 2005/282, **art. 3**

Annual report

5 (1) The Commission must, as soon as possible after the end of each financial year, prepare a report on how it has exercised its functions during the financial year.

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- (2) Each annual report must include information about the persons who have applied to be, and the persons who have been, selected to be appointed or recommended for appointment by the Commission during the financial year to which it relates.
- (3) The information to be included about any persons in an annual report must include information about their gender, age, ethnic origins and community background and the part of Northern Ireland (if any) with which they regard themselves as being most closely associated.
- (4) But an annual report must not identify any person or include information from which the identity of any person could be readily ascertained.
- (5) The Commission must send a copy of each annual report to the [^{F15}Lord Chancellor].
- (6) The [^{F16}Lord Chancellor must lay before each House of Parliament] a copy of each annual report received by [^{F17}him] under sub-paragraph (5).
- (7) After a copy of a report has been laid before [^{F18}each House of Parliament], the Commission must arrange for it to be published.
- (8) In this paragraph “financial year” means—
 - (a) the period beginning with the day on which section 3 comes into force and ending with the first 31st March which falls at least six months after that day, and
 - (b) each subsequent period of twelve months beginning with 1st April.

Textual Amendments

- F15** Words in Sch. 2 para. 5(5) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(9); S.R. 2005/282, art. 3
- F16** Words in Sch. 2 para. 5(6) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(10); S.R. 2005/282, art. 3
- F17** Words in Sch. 2 para. 5(6) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(10); S.R. 2005/282, art. 3
- F18** Words in Sch. 2 para. 5(7) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(11); S.R. 2005/282, art. 3

Financial provisions

- 6 The [^{F19}Lord Chancellor] may make grants to the Commission.

Textual Amendments

- F19** Words in Sch. 2 para. 6 substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(12); S.R. 2005/282, art. 3

- 7
- (1) The Commission must—
 - (a) keep proper accounts and proper financial records, and
 - (b) prepare in respect of each financial year a statement of accounts.
 - (2) The statement of accounts must—
 - (a) contain such information, and

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- (b) be in such form,
as the ^{F20}Lord Chancellor directs].
- ^{F21}(3) The Commission must send copies of the statement of accounts relating to a financial year to—
- (a) the Lord Chancellor, and
 - (b) the Comptroller and Auditor General,
- within such period after the end of the financial year as the Lord Chancellor directs.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement of accounts, and
 - (b) lay a copy of the statement of accounts and of his report on it before each House of Parliament.]

Textual Amendments

- F20** Words in Sch. 2 para. 7(2) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(13); S.R. 2005/282, art. 3
- F21** Sch. 2 para. 7(3)(4) substituted (15.6.2005) by Justice (Northern Ireland) Act 2004 (c. 4), ss. 1, 19(1), Sch. 1 para. 5(14); S.R. 2005/282, art. 3

Committees and sub-committees

- 8 (1) The Commission may establish committees.
- (2) Any committee of the Commission may establish sub-committees.
- (3) A committee or sub-committee may consist of or include persons who are not members of the Commission.
- (4) The Commission may pay to or in respect of any member of a committee or sub-committee who is neither a member of the Commission nor a member of staff of the Commission any such salary or allowances as the Commission may determine.

Proceedings

- 9 The Commission may regulate—
- (a) its own procedure (including quorum), and
 - (b) the procedure (including quorum) of its committees and their sub-committees.
- 10 The validity of any proceedings of the Commission, or of any of its committees or their sub-committees, is not affected by—
- (a) any vacancy amongst the members, or
 - (b) any defect in the appointment of a member.

Delegation

- 11 (1) The Commission may delegate any of its functions (to such extent as it determines) to any of its committees.

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- (2) A committee to which a function has been delegated may further delegate it (to such extent as it determines) to a sub-committee.
- 12 If the function of selecting a person for appointment, or recommendation for appointment, to an office is delegated to a committee or sub-committee, the committee or sub-committee must include a member of the Commission and, unless he is a lay member, a person who is eligible to be a lay member.

Miscellaneous

- 13 (1) The Commission is not to be regarded—
(a) as the servant or agent of the Crown, or
(b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Commission’s property is not to be regarded as property of, or held on behalf of, the Crown.
- 14 The Commission may do anything, apart from borrowing money, which it considers is—
(a) appropriate for facilitating, or
(b) incidental or conducive to,
the exercise of its functions.
- 15 The application of the seal of the Commission is to be authenticated by the signature of any member, or member of staff, of the Commission who has been authorised (whether generally or specially) for the purpose.
- 16 Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Commission by any person who has been authorised (whether generally or specially) for the purpose.
- 17 A document purporting to be—
(a) duly executed by the Commission under its seal, or
(b) signed on its behalf,
is to be received in evidence and is, unless the contrary is proved, to be taken to be so executed or signed.

Disqualification

- 18 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
“The Northern Ireland Judicial Appointments Commission.”
- 19 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
“The Northern Ireland Judicial Appointments Commission.”

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Freedom of information

20 In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities), insert (at the appropriate place in alphabetical order)—

“The Northern Ireland Judicial Appointments Commission.”

VALID FROM 12/04/2010

SCHEDULE 3

Section 5

APPOINTMENT TO LISTED JUDICIAL OFFICES

Temporary High Court judges

1 In section 7(3) of the Judicature (Northern Ireland) Act 1978 (c. 23) (appointment of temporary High Court judges)—

- (a) for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”, and
- (b) for “he may” substitute “ they may, acting jointly, ”.

County court judges and deputy county court judges

2 The County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.)) has effect subject to the following amendments.

3 In section 102(1) (appointment of county court judges), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly ”.

4 (1) Section 107 (deputy county court judges) is amended as follows.

(2) In subsection (1), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.

(3) In subsection (3)—

- (a) for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”, and
- (b) for “he thinks” substitute “ they think ”.

5 In section 134 (evidence of health of person recommended for appointment as county court judge), for “Lord Chancellor shall take steps to satisfy himself” substitute “ First Minister and deputy First Minister shall take steps to satisfy themselves ”.

6 After section 136 insert—

“136A Charges on Northern Ireland Consolidated Fund

There shall be charged on and paid out of the Consolidated Fund of Northern Ireland the salaries payable to judges under section one hundred and six.”

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PROSPECTIVE

Resident magistrates and deputy resident magistrates

- 7 The Magistrates' Courts Act (Northern Ireland) 1964 (c. 21 (N.I.)) has effect subject to the following amendments.

PROSPECTIVE

- 8 In section 9(1) (appointment of resident magistrates), for "Lord Chancellor" substitute "First Minister and deputy First Minister, acting jointly".

PROSPECTIVE

- 9 In section 10(1) (appointment of deputy resident magistrates)—
- (a) for "The Lord Chancellor" substitute "The First Minister and deputy First Minister, acting jointly,"
 - (b) for "the Lord Chancellor", in the first place, substitute "they", and
 - (c) for the words from "such conditions" to the end substitute—
 - (a) such terms and conditions relating to removal from office as the First Minister and deputy First Minister, acting jointly, may determine; and
 - (b) such other terms and conditions, including as to remuneration and superannuation, as the Lord Chancellor may determine."

PROSPECTIVE

- 10 In section 168(2) (payment of salaries), for "the United Kingdom" substitute "Northern Ireland".

PROSPECTIVE

Coroners and deputy coroners

- 11 The Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.)) has effect subject to the following amendments.

PROSPECTIVE

- 12 In section 1 (administration of matters relating to coroners), for "The Lord Chancellor" substitute "Subject to the provisions of this Act, the First Minister and deputy First Minister, acting jointly,".

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PROSPECTIVE

13 For section 2(1) substitute—

“(1) The First Minister and deputy First Minister, acting jointly, may appoint one, or more than one, coroner and deputy coroner—

- (a) for such district or districts and on such conditions as to their removal as the First Minister and deputy First Minister may jointly determine; and
- (b) on such other conditions, including as to remuneration and superannuation, as the Lord Chancellor, after consultation with the Treasury, may determine;

and the Lord Chancellor may, in exercise of his powers under section 69 of the Judicature (Northern Ireland) Act 1978 (c. 23), appoint coroner’s officers and other officers to assist such coroners.”

PROSPECTIVE

14 In section 3 (power to amalgamate coroners’ districts), for “Lord Chancellor, as from such date as he” substitute “ First Minister and deputy First Minister, acting jointly, as from such date as they ”.

PROSPECTIVE

15 In section 6(2) (inability or failure of coroner to discharge duties)—

- (a) for “Lord Chancellor may in writing” substitute “ First Minister and deputy First Minister, acting jointly, may in writing ”, and
- (b) for “the Lord Chancellor may specify” substitute “ they may specify ”.

PROSPECTIVE

Statutory officers and deputies and temporary appointments

16 The Judicature (Northern Ireland) Act 1978 has effect subject to the following amendments.

PROSPECTIVE

17 (1) Section 70 (appointment of statutory officers) is amended as follows.

(2) For subsection (1) substitute—

“(1) Appointments to the offices listed in column 1 of Schedule 3 shall be made by the First Minister and deputy First Minister, acting jointly, after consultation with the Lord Chief Justice—

- (a) on such conditions as to their removal as the First Minister and deputy First Minister may jointly determine; and

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(b) on such other conditions, including as to remuneration and superannuation, as the Lord Chancellor may determine with the concurrence of the Treasury;

and persons holding such offices are in this Act referred to as “statutory officers”.

(3) In subsection (3)—

(a) for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”,

(b) for “he may” substitute “ they may jointly ”, and

(c) for “he considers” substitute “ they consider ”.

(4) In subsection (5), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.

(5) In subsection (6), for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”.

PROSPECTIVE

18 (1) Section 74 (deputies and temporary appointments) is amended as follows.

(2) In subsection (1)—

(a) for “to the Lord Chancellor” substitute “ to the First Minister and deputy First Minister ”,

(b) for “he” substitute “ they, acting jointly, ”,

(c) for “as the Lord Chancellor” substitute “ as they ”, and

(d) for “thinks” substitute “ think ”.

(3) In subsection (3), for “Lord Chancellor otherwise directs” substitute “ First Minister and deputy First Minister, acting jointly, otherwise direct ”.

PROSPECTIVE

Chief Social Security Commissioner, Social Security Commissioners and deputy Social Security Commissioners for Northern Ireland

19 (1) Section 50 of the Social Security Administration (Northern Ireland) Act 1992 (c. 8) (appointment of Social Security Commissioners for Northern Ireland) is amended as follows.

(2) In subsection (1)—

(a) after “time to time” insert “ , on the recommendation of the First Minister and deputy First Minister, acting jointly, ”, and

(b) for the words from “such number” to the end substitute “ other Social Security Commissioners. ”

(3) In subsection (2)—

(a) for “Lord Chancellor considers” substitute “ First Minister and deputy First Minister consider ”,

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- (b) for “he should” substitute “ they should ”,
- (c) for “he may” substitute “ they may jointly ”, and
- (d) for “Lord Chancellor thinks” substitute “ First Minister and deputy First Minister think ”.

PROSPECTIVE

Chief Child Support Commissioner, Child Support Commissioners and deputy Child Support Commissioners for Northern Ireland

- 20 The Child Support Act 1991 (c. 48) has effect subject to the following amendments.

PROSPECTIVE

- 21 In section 23(1) (appointment of Child Support Commissioners for Northern Ireland)—

- (a) after “time to time” insert “ , on the recommendation of the First Minister and deputy First Minister, acting jointly, ”, and
- (b) for the words from “such number” to the end substitute “ other Child Support Commissioners. ”

- 22 In paragraph 8(d) of Schedule 4 (application of provisions relating to Child Support Commissioners to Northern Ireland)—

- (a) before paragraph (i) insert—
 - “(ai) in sub-paragraph (1), for “Lord Chancellor” there were substituted “First Minister and deputy First Minister, acting jointly,”;”

and

- (b) after paragraph (i) insert—
 - “(ia) in paragraph (b) of sub-paragraph (2), for “Lord Chancellor thinks” there were substituted “First Minister and deputy First Minister think”;”

PROSPECTIVE

President and members of appeal tribunals

- 23 The Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)) has effect subject to the following amendments.

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PROSPECTIVE

24 In Article 6(1) (appointment of the President of appeal tribunals), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.

PROSPECTIVE

- 25 (1) Article 7 (appointment of panel of persons to act as members of appeal tribunals) is amended as follows.
- (2) In paragraph (1), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.
- (3) In paragraph (2), for “Lord Chancellor thinks” substitute “ First Minister and deputy First Minister think ”.
- (4) In paragraph (3), for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”.
- (5) In paragraph (4), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.

PROSPECTIVE

Chairmen of Social Care Tribunals in Northern Ireland

26 ^{F22}

Textual Amendments

F22 Sch. 3 para. 26 repealed (1.4.2005) by [The Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(2), [Sch. 5](#); [S.R. 2005/44](#), [art. 3](#), Sch. 1

PROSPECTIVE

27 ^{F23}

Textual Amendments

F23 Sch. 3 para. 27 repealed (1.4.2005) by [The Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(2), [Sch. 5](#); [S.R. 2005/44](#), [art. 3](#), Sch. 1

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

28

F24

Textual Amendments

F24 Sch. 3 para. 28 repealed (1.4.2005) by [The Health and Personal Social Services \(Quality, Improvement and Regulation\) \(Northern Ireland\) Order 2003 \(S.I. 2003/431 \(N.I. 9\)\)](#), arts. 1(3), 50(2), [Sch. 5](#); [S.R. 2005/44](#), [art. 3](#), Sch. 1

PROSPECTIVE

President and Vice President of the Industrial Tribunals and the Fair Employment Tribunal and chairmen of the Fair Employment Tribunal

- 29 (1) Article 82 of the Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 21)) (appointment of President and Vice-President of the Industrial Tribunals and the Fair Employment Tribunal and of chairmen of the Fair Employment Tribunal) is amended as follows.
- (2) In paragraph (1), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.
- (3) In paragraph (3), for “Lord Chancellor” substitute “ Office of the First Minister and deputy First Minister ”.
- (4) In paragraph (6), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly ”.

PROSPECTIVE

- 30 The Fair Employment Tribunal Regulations (Northern Ireland) 1989 (S.R. 1989 No. 444) have effect subject to the following amendments.

PROSPECTIVE

- 31 In regulation 2(2), in the definitions of “the President” and “the Vice-President”, for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”.

PROSPECTIVE

- 32 In regulation 4(1) (resignation of chairmen of the Fair Employment Tribunal for Northern Ireland), for “Lord Chancellor” substitute “ Office of the First Minister and deputy First Minister ”.

Status: Point in time view as at 16/04/2007.

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PROSPECTIVE

- 33 In regulation 2(2) of the Fair Employment Tribunal (Rules of Procedure) Regulations 1989 (S.R. 1989 No. 445), in the definitions of “the President” and “Vice-President”, for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”.

PROSPECTIVE

President and other members of the Lands Tribunal for Northern Ireland

- 34 The Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.)) has effect subject to the following amendments.

PROSPECTIVE

- 35 In section 1(2) (appointment of President and other members), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly ”.

PROSPECTIVE

- 36 In section 3(1) and (2) (appointment of deputy President and temporary members), for “Governor” substitute “ First Minister and deputy First Minister, acting jointly, ”.

PROSPECTIVE

President and chairmen of Special Educational Needs Tribunal for Northern Ireland

- 37 (1) Article 22 of the Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1)) (appointment of President and chairmen of Special Educational Needs Tribunal for Northern Ireland) is amended as follows.
- (2) In paragraph (2)—
- (a) for “Lord Chancellor;” substitute “ First Minister and deputy First Minister, acting jointly; ”, and
- (b) for “Lord Chancellor of” substitute “ First Minister and deputy First Minister, acting jointly, of ”.
- (3) In paragraph (3)(a), for “Lord Chancellor considers” substitute “ First Minister and deputy First Minister consider ”.
- (4) In paragraph (4)(b), for “Lord Chancellor” substitute “ Office of the First Minister and deputy First Minister ”.

Status: Point in time view as at 16/04/2007.

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PROSPECTIVE

Members of tribunal established under section 91 of the Northern Ireland Act 1998

- 38 (1) Schedule 11 to the Northern Ireland Act 1998 (c. 47) (tribunal established under section 91 of that Act) is amended as follows.
- (2) In paragraph 2(1), for “Lord Chancellor as he” substitute “ First Minister and deputy First Minister, acting jointly, as they ”.
- (3) In paragraph 2(3), for “Lord Chancellor” substitute “ Office of the First Minister and deputy First Minister ”.
- (4) In paragraph 3(1), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.
- (5) In paragraph 3(4), for “Lord Chancellor” substitute “ Office of the First Minister and deputy First Minister ”.
- (6) In paragraph 4—
- (a) for “Lord Chancellor” (in each place) substitute “ First Minister and deputy First Minister ”,
 - (b) for “he may determine” (in each place) substitute “ they may determine ”,
 - (c) in sub-paragraph (2), for “he thinks fit” substitute “ they think fit ”, and
 - (d) in sub-paragraph (3), for “he may pay” substitute “ they may pay ”.

PROSPECTIVE

Members of the Mental Health Review Tribunal for Northern Ireland

- 39 (1) Schedule 3 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/ 595 (N.I. 4)) (Mental Health Review Tribunal for Northern Ireland) is amended as follows.
- (2) In paragraph 1—
- (a) for “appointed by the Lord Chancellor” (in each place) substitute “ appointed by the First Minister and deputy First Minister, acting jointly, ”, and
 - (b) for “Lord Chancellor considers” (in both places) substitute “ First Minister and deputy First Minister consider ”.
- (3) In paragraph 2, for “Lord Chancellor” substitute “ Office of the First Minister and deputy First Minister ”.
- (4) In paragraph 3, for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.

Status: Point in time view as at 16/04/2007.

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PROSPECTIVE

Lay magistrates

40 This Act has effect subject to the following amendments.

PROSPECTIVE

- 41 (1) Section 9 is amended as follows.
- (2) In subsections (1), (3) and (4), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.
- (3) In subsection (2), for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”.
- (4) In subsection (5), for “Lord Chancellor otherwise determines” substitute “ First Minister and deputy First Minister, acting jointly, otherwise determine ”.
- (5) In subsection (11)—
- (a) for “Lord Chancellor” substitute “ First Minister and deputy First Minister ”, and
- (b) for “he may” substitute “ they may jointly ”.

PROSPECTIVE

- 42 (1) Section 90 is amended as follows.
- (2) In subsection (2), after “2(2)(b)” insert “ or 9(4) ”.
- (3) In subsection (4), omit “9(4),”.

[^{F25}SCHEDULE 3A

THE NORTHERN IRELAND JUDICIAL APPOINTMENTS OMBUDSMAN

Textual Amendments

F25 Sch. 3A inserted (25.9.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 124, 148, [Sch. 15](#); [S.I. 2006/1537](#), [art. 3](#)

The Ombudsman

- 1 (1) A person must not be appointed as the Ombudsman if any of these sub-paragraphs applies—
- (a) he is employed in the civil service of the State;

Status: Point in time view as at 16/04/2007.

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- (b) he is a member of the House of Commons;
 - (c) he is a member of the Northern Ireland Assembly;
 - (d) he is engaged in political activity as a member of a political party;
 - (e) he has ever been any of these—
 - (i) a practising barrister in England and Wales;
 - (ii) a practising solicitor of the Supreme Court 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 Supreme Court of Judicature of Northern Ireland;
 - (vii) the holder of a listed judicial office.
- (2) Before recommending a person for appointment as the Ombudsman the Lord Chancellor must consider—
- (a) whether the person has exercised functions that appear to the Lord Chancellor to be of a judicial nature and such as to make the person inappropriate for the appointment;
 - (b) whether any past service in a capacity mentioned in sub-paragraph (3) appears to the Lord Chancellor to make the person inappropriate for the appointment.
- (3) The service referred to in subsection (2)(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.
- 2 (1) In this Schedule “practising” is to be read in accordance with sub-paragraphs (2) and (3).
- (2) A barrister in England and Wales, an advocate in Scotland or a member of the Bar of Northern Ireland is practising if he is—
- (a) practising as such,
 - (b) employed to give legal advice, or
 - (c) providing legal advice under a contract for services.
- (3) A solicitor of the Supreme Court, a solicitor in Scotland or a solicitor of the Supreme Court of Judicature of Northern Ireland is practising if he is—
- (a) acting as such,
 - (b) employed to give legal advice, or
 - (c) providing legal advice under a contract for services.
- Term of office etc. of Ombudsman*
- 3 (1) The Ombudsman must be appointed for a fixed period.
- (2) But an appointment is subject to paragraphs 4 and 5.
- 4 A person—

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- (a) may not be appointed as the Ombudsman for more than 5 years at a time, and
 - (b) may not hold office as the Ombudsman for periods (whether or not consecutive) totalling more than 10 years.
- 5 (1) The Ombudsman may at any time—
- (a) resign his office by notice in writing addressed to Her Majesty;
 - (b) be removed from office by the Lord Chancellor.
- (2) The Lord Chancellor may not remove the Ombudsman from office unless he is satisfied that the Ombudsman—
- (a) has become disqualified for appointment under paragraph 1(1),
 - (b) has ceased to be appropriate for the appointment because of considerations listed in paragraph 1(2),
 - (c) has, within the preceding nine months, failed to discharge the functions of his office for a continuous period of at least six months,
 - (d) has been convicted of an offence,
 - (e) is an undischarged bankrupt, or
 - (f) is otherwise unfit to hold his office or unable to discharge its functions.

Salary, allowances and expenses

- 6 (1) The Lord Chancellor may—
- (a) pay to the Ombudsman such remuneration, fees or expenses as the Lord Chancellor may determine;
 - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been the Ombudsman.
- (2) If—
- (a) the Ombudsman ceases to hold office other than on the expiry of his term of appointment, and
 - (b) it appears to the Lord Chancellor that there are special circumstances that would warrant the payment of compensation to him,
- the Lord Chancellor may make to or in respect of him a payment of such amount as the Lord Chancellor may determine.

Acting Ombudsman

- 7 (1) The Lord Chancellor may appoint a person to exercise the functions of the Ombudsman if—
- (a) the Ombudsman's office becomes vacant,
 - (b) the Lord Chancellor determines that the Ombudsman is incapable of exercising his functions, or
 - (c) the Ombudsman notifies the Lord Chancellor that it would be inappropriate for him to exercise any of his functions in connection with a particular matter because of a possible conflict of interests or for any other reason.
- (2) But a person may be appointed under this paragraph only if he is eligible under paragraph 1 to be appointed as Ombudsman.
- (3) The Lord Chancellor may—

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- (a) pay to a person appointed under this paragraph such remuneration, fees or expenses as the Lord Chancellor may determine;
 - (b) pay, or make provision for the payment of, such pension, allowance or gratuity as the Lord Chancellor may determine to or in respect of a person who is or has been a person appointed under this paragraph.
- (4) A person appointed under this paragraph is to exercise the functions of the Ombudsman in accordance with the terms of his appointment.
- (5) The Lord Chancellor may end an appointment under this paragraph at any time.
- (6) Otherwise any appointment of a person under this paragraph ends on the earliest of—
- (a) that person's ceasing to be eligible to be appointed as Ombudsman;
 - (b) the expiry of the appointment in accordance with its terms and conditions;
 - (c) the date on which with the agreement of the Lord Chancellor the Ombudsman resumes the exercise of his functions;
 - (d) the appointment of a new Ombudsman;
 - (e) the end of twelve months beginning with the relevant date.
- (7) The relevant date is—
- (a) if the appointment was under sub-paragraph (1)(a), the date when the vacancy arose;
 - (b) if the appointment was under sub-paragraph (1)(b), the date of the Lord Chancellor's determination;
 - (c) if the appointment was under sub-paragraph (1)(c), the date of the notification.

Status of the Ombudsman

- 8 The person for the time being holding the office of the Ombudsman is by the name of that office a corporation sole.

Powers of the Ombudsman

- 9 (1) The Ombudsman does not have power to do any of the following—
- (a) to borrow money;
 - (b) to hold real property;
 - (c) to appoint staff (except by way of arrangements under paragraph 10).
- (2) Subject to sub-paragraph (1), the Ombudsman may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of his functions.
- (3) Nothing in this Schedule is to be read as limiting the generality of sub-paragraph (2).

Arrangements for assistance

- 10 (1) The Ombudsman may make arrangements with such persons as he considers appropriate for assistance to be provided to him.
- (2) Arrangements may include the paying of fees to such persons.
- (3) No arrangements may be made under this paragraph unless approved by the Lord Chancellor.

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Arrangements by the Lord Chancellor

- 11 Unless the Ombudsman has made arrangements under paragraph 10, the Lord Chancellor may make arrangements for assistance to be provided to the Ombudsman.

Delegation of functions

- 12 (1) The Ombudsman may delegate any functions to—
- (a) any person with whom arrangements are made under paragraph 10 or 11, or
 - (b) any person providing assistance to the Ombudsman in pursuance of such arrangements.
- (2) But all recommendations and reports prepared by or on behalf of the Ombudsman must be signed by him.

Financial provisions and directions

- 13 (1) Expenditure incurred by the Ombudsman in the discharge of his functions is to be met by the Lord Chancellor.
- (2) The Lord Chancellor may by direction require the Ombudsman—
- (a) not to incur costs and expenditure in excess of a specified amount without his consent;
 - (b) to follow specified procedures in relation to his costs and expenditure.
- (3) A direction under sub-paragraph (2) may relate to all of the Ombudsman's costs and expenditure, or to costs and expenditure of a specified description.

Code of conduct

- 14 The Lord Chancellor may issue and from time to time revise a code of conduct to be observed by the Ombudsman and any person appointed under paragraph 7 to exercise his functions.

Reports

- 15 (1) The Ombudsman must, as soon as practicable after the end of each financial year, provide to the Lord Chancellor a report about the performance of his functions during that year.
- (2) The Lord Chancellor may by direction require the Ombudsman to deal, in reports or a particular report under sub-paragraph (1), with matters specified in the direction.
- (3) The Ombudsman must, as soon as practicable after a direction by the Lord Chancellor under this sub-paragraph, provide to the Lord Chancellor a report about any matter or matters specified in the direction.
- (4) The Lord Chancellor must lay before each House of Parliament a copy of any report provided to him under sub-paragraph (1).
- (5) The Ombudsman must publish any report once copies of it have been laid under sub-paragraph (4).

Status: Point in time view as at 16/04/2007.

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Documentary evidence

- 16 A document purporting to be an instrument issued by the Ombudsman and to be signed by or on behalf of the Ombudsman is to be received in evidence and, unless the contrary is proved, taken to be such an instrument and signed in that way.

General

- 17 (1) Financial year in this Schedule, means—
- (a) the period beginning with the date on which section 9A comes into force and ending with the following 31 March, and
 - (b) each successive period of twelve months.
- (2) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices) at the appropriate place insert— The Northern Ireland Judicial Appointments Ombudsman.
- (3) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— The Northern Ireland Judicial Appointments Ombudsman.]

SCHEDULE 4

Section 10

FUNCTIONS OF JUSTICES OF THE PEACE

Retained functions

- 1 (1) A function of justices of the peace under any provision to which sub-paragraph (2) applies is to remain a function of theirs (and is not transferred to lay magistrates).
- (2) This sub-paragraph applies to—
- (a) sections 79 and 80 of the Harbours, Docks, and Piers Clauses Act 1847 (c. 27) (appointment and dismissal of harbour police),
 - (b) section 542(2) of the Merchant Shipping Act 1894 (c. 60) (declaration by marine store dealer),
 - (c) section 6(2A) of the Game Preservation Act (Northern Ireland) 1928 (c. 25 (N.I.)) (destruction of game),
 - (d) section 23(1) of the Government Annuities Act 1929 (c. 29) (confirmation of declaration),
 - (e) section 63(3) and (4) of the Foyle Fisheries Act (Northern Ireland) 1952 (c. 5 (N.I.)) (destruction or disposal of fish),
 - (f) ^{F26} . . . section 19(1) and (2) (right to visit prison) of the Prison Act (Northern Ireland) 1953 (c. 18 (N.I.)),
 - (g) section 8(3) of the Agricultural Produce (Meat Regulation and Pig Industry) Act (Northern Ireland) 1962 (c. 13 (N.I.)) (certificate authorising destruction or disposal of meat),
 - (h) section 47(1) and (2) of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (declaration of expenses at election),

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- (i) section 114(1) (certificate of fitness for dealer's licence) and section 181(4) (certificate of fish to be destroyed or disposed of) of the Fisheries Act (Northern Ireland) 1966 (c. 17 (N.I.)),
- (j) section 57 of the Civil Aviation Act 1982 (c. 16) (appointment and swearing in of constables),
- (k) section 1(2)(c) of the Ministry of Defence Police Act 1987 (c. 4) (declaration by members of Ministry of Defence police force),
- (l) Article 8(3) to (7) of the Food Safety (Northern Ireland) Order 1991 (S.I. 1991/762 (N.I. 7)) (condemnation of food not complying with food safety requirements),
- (m) Article 19(3) of the Airports (Northern Ireland) Order 1994 (S.I. 1994/ 426 (N.I. 1)) (declaration by airport constables),
- (n) section 38(1) of the Police (Northern Ireland) Act 2000 (c. 32) (attestation of constables of Police Service of Northern Ireland),
- (o) section 18(2) and (3) of the Street Trading Act (Northern Ireland) 2001 (c. 8 (N.I.)) (certificate of seized items).

Textual Amendments

F26 Words in [Sch. 4 para. 1\(2\)\(f\)](#) repealed (19.8.2005) by The Criminal Justice (Northern Ireland) Order (S.I. 2005/1965 (N.I. 15)), arts. 1(4), 10, Sch. 1 para. 11, {Sch. 2}

Shared functions

- 2 (1) A function of justices of the peace under any provision to which sub-paragraph (2) applies is to remain a function of theirs but is also to become a function of lay magistrates.
- (2) This sub-paragraph applies to—
- (a) section 26(1) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) (power to administer oaths),
 - (b) Article 56(1) of the County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3)) (affidavits for use in a county court).

Functions to be exercisable only by resident magistrates

- 3 (1) A function of justices of the peace or magistrates' courts under a provision to which sub-paragraph (2) applies is to be a function only of resident magistrates.
- (2) This sub-paragraph applies to—
- (a) Article 5(1) and (2) of the Protection of Children (Northern Ireland) Order 1978 (S.I. 1978/1047 (N.I. 17)) (indecent photographs: forfeiture),
 - (b) Article 152 of the Magistrates' Courts (Northern Ireland) Order 1981 (S. I. 1981/1675 (N.I. 26)) (enforcement of orders after appeal),
 - (c) Articles 44 and 45 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)) (warrants of further detention).

Status: Point in time view as at 16/04/2007.

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Amendments: general

- 4 The Lord Chancellor may [^{F27}, after consultation with the Lord Chief Justice,] by order amend paragraph 1(2), 2(2) or 3(2)—
- (a) by adding any provision contained in any enactment or instrument passed or made before the coming into force of this Schedule, or
 - (b) by removing any provision.

Textual Amendments

F27 Words in Sch. 4 para. 4 inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 para. 124(2); S.I. 2006/1014, art. 2, Sch. 1 para. 12

- 5 The Lord Chancellor may [^{F28}, after consultation with the Lord Chief Justice,] by order make provision amending any enactment or instrument in consequence of the provision made by section 10 or by or by virtue of the preceding provisions of this Schedule.

Textual Amendments

F28 Words in Sch. 4 para. 5 inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 para. 124(3); S.I. 2006/1014, art. 2, Sch. 1 para. 12

- [^{F29}5A The Lord Chief Justice may nominate any of the following to exercise his functions under paragraph 4 or 5—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c. 26);
 - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

Textual Amendments

F29 Sch. 4 para. 5A inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 para. 124(4); S.I. 2006/1014, art. 2, Sch. 1 para. 12

- 6 So far as may be appropriate in consequence of the provision made by section 10 or by or by virtue of this Schedule—
- (a) references in any enactment or instrument to a justice of the peace (or to a justice of the peace other than a resident magistrate) may be construed as being or including a reference to a lay magistrate, and
 - (b) references in any enactment or instrument to a magistrates' court may be construed as a reference to a resident magistrate or a court of summary jurisdiction.

Specific amendments

- 7 The references to justices of the peace in sections 13, 15, 16 and 18 of the Statutory Declarations Act 1835 (c. 62) (oaths and declarations) include lay magistrates.
- 8 In section 5(1) of the General Dealers (Ireland) Act 1903 (c. 44) (general dealers to produce articles and books on demand of constable authorised by a justice), for

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- “general or special authority of a justice of the peace” substitute “ authority of a warrant issued by a lay magistrate ”.
- 9 In section 26(4) of the Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.)) (administration of oaths), after “upon a” insert “ lay magistrate or ”.
- 10 In section 189(1) of the Army Act 1955 (3 & 4 Eliz. 2 c. 18) (certificates of arrest or surrender of deserters and absentees), after “justice of the peace” insert “ or (in Northern Ireland) resident magistrate ”.
- 11 In section 189(1) of the Air Force Act 1955 (3 & 4 Eliz. 2 c. 19) (certificates of arrest or surrender of deserters and absentees), after “justice of the peace” insert “ or (in Northern Ireland) resident magistrate ”.
- 12 In sections 47(2) and 110(2) of the Naval Discipline Act 1957 (c. 53) (certificates of arrest and surrender), after “justice of the peace” insert “ or (in Northern Ireland) resident magistrate ”.
- 13 In section 110(2) of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.)) (non-payment of compensation for unjust etc. charge of personation), for “under the hand and seal of a justice of the peace” substitute “ issued by a lay magistrate ”.

PROSPECTIVE

F30 14

Textual Amendments

F30 Sch. 4 para. 14 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 4 para. 36 (with Sch. 5 para. 16); S.I. 2010/812, art. 2

- 15 In section 21 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.)) (offences during suspended sentence etc.), for subsection (2) substitute—
- “(2) A summons under this section shall not be issued except on complaint; and a warrant under this section shall not be issued except on complaint in writing and on oath.
- (2A) Subsection (2) does not apply to a summons or warrant issued (by virtue of section 9(12) of the Justice (Northern Ireland) Act 2002) by a judge of the Crown Court acting in consequence of a notice under section 20(3) of this Act.”
- 16 The Judicature (Northern Ireland) Act 1978 (c. 23) has effect subject to the following amendments.
- 17 (1) Section 103 (appointment of justices of the peace) is amended as follows.
- (2) In subsection (3), for “Lord Chancellor” substitute “ First Minister and deputy First Minister, acting jointly, ”.

Status: Point in time view as at 16/04/2007.

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(3) In subsections (4) and (5), insert at the beginning “Subject to the Justice (Northern Ireland) Act 2002,”.

(4) After subsection (5) insert—

“(5A) A justice of the peace for a county court division may act as such in relation to all matters arising within that division and may so act even if at the time of acting he is in some other area of Northern Ireland.”

Commencement Information

II Sch. 4 para. 17 partly in force; Sch. 4 para. 17 not in force at Royal Assent see s. 87; Sch. 4 para. 17(1)(3)(4) in force at 1.4.2005 by S.R. 2005/109, art. 2, Sch.

18 After that section insert—

“103A Power of court of record to bind over

(1) Any court of record in Northern Ireland having a criminal jurisdiction has, as ancillary to that jurisdiction, the power—

- (a) to bind over to keep the peace; or
- (b) to bind over to be of good behaviour,

a person who or whose case is before the court by requiring him to enter into his own recognisances or to find sureties (or both) and committing him to prison if he does not comply.

(2) A magistrates’ court is not to be regarded as a court of record for the purposes of subsection (1).”

19 In Article 84(6) of the Pollution Control and Local Government (Northern Ireland) Order 1978 (S.I. 1978/1049 (N.I. 19)) (judges and justices not disqualified by being ratepayers etc.), for “and a justice of the peace” substitute “ , resident magistrate or lay magistrate ”.

20 The Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26)) has effect subject to the following amendments.

21 In Article 2(2)(b) (meaning of “magistrates’ court”), for “justice of the peace” substitute “ lay magistrate ”.

22 (1) Article 3 (functions of justices etc.) is amended as follows.

(2) In paragraph (1)—

- (a) for “justice of the peace” substitute “ lay magistrate ”, and
- (b) for “justices of the peace” substitute “ lay magistrates ”.

(3) In paragraph (2)—

- (a) for “justice of the peace other than a resident magistrate” substitute “ lay magistrate ”, and
- (b) for “justice of the peace by the commission of the peace or” substitute “ lay magistrate ”.

23 In Article 4 (local jurisdiction of justice of the peace), for “justice of the peace” substitute “ lay magistrate ”.

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- 24 In Articles 5 and 6 (immunity)—
(a) for “justice of the peace” substitute “ lay magistrate ”, and
(b) for “such a magistrate or justice” substitute “ a resident magistrate or a lay magistrate ”.
- 25 In Article 6A (costs)—
(a) for “justice of the peace” (in each place) substitute “ lay magistrate ”, and
(b) for “such a magistrate or justice” substitute “ a resident magistrate or a lay magistrate ”.
- 26 In Article 7 (clerk’s immunity in respect of warrant to enforce order), for “resident magistrate or other justice of the peace” substitute “ magistrates’ court ”.
- 27 In Article 10(1) and (1A) (defrayal of expenses)—
(a) for “or other justice of the peace” substitute “ , by a lay magistrate ”, and
(b) for “magistrate, justice” substitute “ resident magistrate, lay magistrate ”.
- 28 In Article 18(4) (procedure)—
(a) for “other justice of the peace” in the words preceding sub-paragraph (a) and in sub-paragraph (b) substitute “ lay magistrate ”, and
(b) for “or justice of the peace” substitute “ or lay magistrate ”.
- 29 In Article 42(1)(a) and (b) (reading of depositions), for “other justice of the peace” substitute “ lay magistrate ”.
- 30 In Article 114(2) (warrants: postponement of issue and stay of execution), insert at the end “; but a lay magistrate sitting out of petty sessions may postpone the issue of a warrant, or stay the execution of it, only if it was issued by him or another lay magistrate.”
- 31 In Article 126(1) (proof of service), for “other justice of the peace” substitute “ lay magistrate ”.
- 32 In Article 156 (validity of documents)—
(a) for “other justice of the peace” substitute “ lay magistrate ”, and
(b) for “magistrate, justice or clerk of petty sessions” substitute “ person ”.
- 33 In Article 158(1) (execution of warrants), for “other justice of the peace” substitute “ lay magistrate ”.
- 34 In Article 160(1) (misbehaviour in court), for “justice of the peace” substitute “ lay magistrate ”.
- 35 In paragraph 2 of Schedule 1 (matters which may be dealt with by a justice of the peace out of petty sessions), for “justice of the peace” substitute “ lay magistrate ”.
- 36 In Article 165(2) of the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/ 2405 (N.I. 19)) (affidavits etc.), for “justices” substitute “ lay magistrates ”.
- 37 In section 244(6)(a)(ii) of the Criminal Procedure (Scotland) Act 1995 (c. 46) (community service orders), for “justice of the peace acting for the petty sessions district for the time being specified in the order” substitute “ resident magistrate ”.
- 38 In Schedule 2 to the Juries (Northern Ireland) Order 1996 (S.I. 1996/1141 (N.I. 6)) (persons ineligible for jury service), after the entry relating to persons holding an office belonging to any court of justice in Northern Ireland insert—
“Lay magistrate.”

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- 39 In section 9(5) of the Human Rights Act 1998 (c. 42) (judicial acts), in the definition of “judge”, after “a justice of the peace” insert “ (or, in Northern Ireland, a lay magistrate) ”.
- 40 In section 81(1) of the Regulation of Investigatory Powers Act 2000 (c. 23) (interpretation), after the definition of “interception warrant” insert—
 ““justice of the peace” does not include a justice of the peace in Northern Ireland;”.

F31F31 SCHEDULE 5

Textual Amendments

F31 Sch. 5 repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 5 para. 125, Sch. 18 Pt. 3; S.I. 2006/1014, art. 2(a), Sch. 1 paras. 12, 30

F31

SCHEDULE 6

Section 19

OFFICE-HOLDERS REQUIRED TO TAKE JUDICIAL OATH

Lord Chief Justice
 Lord Justice of Appeal
 Judge of the High Court
 Temporary judge of the High Court under section 7(3) of the Judicature (Northern Ireland) Act 1978 (c. 23)
 County court judge
 Deputy county court judge
 Resident magistrate
 Deputy resident magistrate
 Coroner
 Deputy coroner
 Statutory officer (within the meaning of section 70(1) of the Judicature (Northern Ireland) Act 1978)
 Deputy for a statutory officer under section 74 of that Act
 Temporary additional statutory officer under that section
 Chief Social Security Commissioner for Northern Ireland
 Social Security Commissioner for Northern Ireland
 Deputy Social Security Commissioner for Northern Ireland
 Chief Child Support Commissioner for Northern Ireland
 Child Support Commissioner for Northern Ireland
 Deputy Child Support Commissioner for Northern Ireland
 President of appeal tribunals (within the meaning of Chapter 1 of Part 2 of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10)))

Status: Point in time view as at 16/04/2007.

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Member of the panel of persons to act as members of such appeal tribunals

Member of the legal panel of persons available to act as chairmen of Social Care Tribunals in Northern Ireland

[^{F32} Chairman of an Appeal Tribunal for the purposes of the Adoption (Northern Ireland) Order 1987 (S.I. 1987/2203 (N.I. 22))]

President of the Industrial Tribunals and the Fair Employment Tribunal

Acting President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 12))

Vice-President of the Industrial Tribunals and the Fair Employment Tribunal

Acting Vice-President of the Industrial Tribunals and the Fair Employment Tribunal under Article 82(6) of the Fair Employment and Treatment (Northern Ireland) Order 1998

[^{F33} Member of the panel of chairmen of the Industrial Tribunals]

Member of the panel of chairmen of the Fair Employment Tribunal

President of the Lands Tribunal for Northern Ireland

Deputy President of the Lands Tribunal for Northern Ireland under section 3(1) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.))

Other member of the Lands Tribunal for Northern Ireland

Temporary member of the Lands Tribunal for Northern Ireland under section 3(2) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964

President of the Special Educational Needs Tribunal [^{F34}and Disability] for Northern Ireland

Member of the panel of persons who may serve as chairman of that Tribunal

Member of the tribunal established under section 91 of the Northern Ireland Act 1998 (c. 47)

Member of the Mental Health Review Tribunal for Northern Ireland

Lay magistrate

Justice of the Peace

^{F35}

[^{F36} Member of the panel of persons who may serve as chairmen of a tribunal established for the purposes of the Deregulation (Model Appeal Provisions) Order (Northern Ireland) 1997 (S.R. 1997/269).

Chairman of a Tribunal appointed under paragraph 1(1)(a) of Schedule 3 to the Misuse of Drugs Act 1971 in its application to Northern Ireland

Member of a Tribunal appointed under paragraph 2(1) of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

President or Deputy President of Pensions Appeal Tribunals appointed under paragraph 2B of the Schedule to the Pensions Appeal Tribunals Act 1943 in its application to Northern Ireland

Chairman of the Plant Varieties and Seeds Tribunal for the purpose of proceedings brought before it in Northern Ireland

Member of the panel of persons to act as chairmen of Reinstatement Committees sitting in Northern Ireland (appointed under paragraph 2(1)(a) of Schedule 2 to the Reserve Forces (Safeguard of Employment) Act 1985)

Member of the panel of persons appointed under section 6(1) of the Tribunals and Inquiries Act 1992 to act as chairmen of tribunals that sit in Northern Ireland

Member of the panel of chairmen of VAT tribunals for Northern Ireland

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General Commissioner for a division in Northern Ireland (appointed under section 2 of the Taxes Management Act 1970)]

[^{F37}President of the Northern Ireland Valuation Tribunal
Member of the Northern Ireland Valuation Tribunal]

Textual Amendments

- F32** Sch. 6: entry inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, {Sch. 5, para. 126(2)}; S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12
- F33** Sch. 6: entry inserted (31.8.2005) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 5 para. 126\(4\)](#); S.I. 2005/2284, [art. 2](#)
- F34** Sch. 6: words in entry inserted (1.9.2005) by [The Special Educational Needs and Disability \(Northern Ireland\) Order 2005 \(S.I. 2005/1117 \(N.I. 6\)\)](#), arts. 1, 50(1), [Sch. 5 para. 10](#); S.R. 2005/336, [art. 2](#), Sch.
- F35** Words in Sch. 6 repealed (1.4.2005) by 2002 c. 26, ss. 86, 87, Sch. 13; S.R. 2005/109, [art. 2](#), Sch.
- F36** Sch. 6: entries inserted (3.4.2006 except in regard to the office of General Commissioner for a division in Northern Ireland) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 5 para. 126\(5\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12
- F37** Sch. 6: entries inserted (1.4.2007) by [The Justice \(Northern Ireland\) Act 2002 \(Addition of Listed Judicial Offices etc.\) Order 2006 \(S.R. 2006/469\)](#), [art. 3](#)

VALID FROM 12/04/2010

SCHEDULE 7

Section 28

FUNCTIONS OF ADVOCATE GENERAL

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SCHEDULE 8

Section 45

CHIEF INSPECTOR OF CRIMINAL JUSTICE

Chief Inspector's tenure

- 1 (1) Subject as follows, the Chief Inspector holds office in accordance with the terms of his appointment (or re-appointment).
 - (2) The Chief Inspector must not be appointed for more than five years at a time.
 - (3) The Chief Inspector may resign by notice in writing to the Secretary of State.
 - (4) The Secretary of State may dismiss the Chief Inspector if satisfied that—
 - (a) he has without reasonable excuse failed to exercise his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal,
 - (b) he has been convicted of a criminal offence,

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- (c) a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
- (d) he is otherwise unable or unfit to exercise his functions.

Salary etc. of Chief Inspector

- 2 (1) The Secretary of State must pay to or in respect of the Chief Inspector such—
- (a) salary,
 - (b) allowances, and
 - (c) sums for the provision of pensions,
- as the Secretary of State determines.
- (2) If a person who, by reference to any office or employment, is a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11) becomes the Chief Inspector, the Minister for the Civil Service may determine that (instead of payments being made to him under sub-paragraph (1)(c)) his service as Chief Inspector is to be treated for the purposes of the scheme as service in that office or employment.

Staff

- 3 (1) The Chief Inspector may employ staff, but subject to the approval of the Secretary of State as to—
- (a) numbers,
 - (b) salary, and
 - (c) other terms of employment.
- (2) The Chief Inspector may make arrangements for securing the provision to him of such assistance by persons employed in—
- (a) the civil service of the United Kingdom, or
 - (b) the civil service of Northern Ireland,
- as he considers appropriate for or in connection with the exercise of his functions.
- (3) Employment as a member of staff of the Chief Inspector is among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply; and, accordingly, in Schedule 1 to that Act (employments etc. to which section 1 can apply), at the appropriate place in the list of “Other Bodies” insert—
- “Employment by the Chief Inspector of Criminal Justice in Northern Ireland.”
- (4) The Chief Inspector must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (3) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Annual report

- 4 (1) The Chief Inspector must, as soon as possible after the end of each financial year, prepare a report on how he has exercised his functions during the financial year.
- (2) The Chief Inspector must send a copy of each annual report to the Secretary of State who must—

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- (a) lay a copy of it before each House of Parliament, and
 - (b) arrange for it to be published.
- (3) But the Secretary of State may exclude a part of an annual report from the copy so laid or published if, in his opinion, the laying or publication of the part—
- (a) would be against the public interest, or
 - (b) might jeopardise the safety of any person.
- (4) If the Secretary of State excludes a part of an annual report from laying or publication, he must lay or publish with the annual report a statement that it has been excluded.
- (5) In this paragraph “financial year” means—
- (a) the period beginning with the day on which section 45 comes into force and ending with the first 31st March which falls at least six months after that day, and
 - (b) each subsequent period of twelve months beginning with 1st April.

Financial provisions

- 5 The Secretary of State may make grants to the Chief Inspector.
- 6 (1) The Chief Inspector must—
- (a) keep proper accounts and proper financial records, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) The statement of accounts must—
- (a) contain such information, and
 - (b) be in such form,
- as the Secretary of State directs.
- (3) The Chief Inspector must send copies of the statement of accounts relating to a financial year to—
- (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General,
- within such period after the end of the financial year as the Secretary of State directs.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement of accounts, and
 - (b) lay a copy of the statement of accounts and of his report on it before each House of Parliament.
- (5) In this paragraph “financial year” has the same meaning as in paragraph 4.

Delegation of functions

- 7 (1) The Chief Inspector may delegate any of his functions (to such extent as he may determine) to—
- (a) any member of his staff,
 - (b) any person providing assistance by virtue of paragraph 3(2), or
 - (c) the holder of any office within sub-paragraph (2).
- (2) Those offices are—

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- (a) Her Majesty’s Inspector of Constabulary,
 - (b) Her Majesty’s Chief Inspector of Prisons, ^{F44} . . .
 - (c) Her Majesty’s Chief Inspector of the Crown Prosecution Service^{F45} and,
 - (d) Her Majesty’s Chief Inspector of the National Probation Service in England and Wales.]
- (3) The Secretary of State may by order amend sub-paragraph (2) by—
- (a) adding an office,
 - (b) omitting an office, or
 - (c) altering the description of an office.
- (4) If the carrying out of an inspection or review is delegated under this paragraph it is nevertheless to be regarded for the purposes of sections 46 to 49 as carried out by the Chief Inspector.

Textual Amendments

- F44** Word in *Sch. 8 para. 7(2)(b)* omitted (21.12.2003) by virtue of The Justice (Northern Ireland) Act 2002 (Amendment of section 46(1) and paragraph 7(2) of Schedule 8) Order 2003 (*S.R. 2003/552*), {art. 3(2)}
- F45** *Sch. 8 para. 7(2)(d)* and preceding word inserted (21.12.2003) by The Justice (Northern Ireland) Act 2002 (Amendment of section 46(1) and paragraph 7(2) of Schedule 8) Order 2003 (*S.R. 2003/552*), {art. 3(3)}

Inspections of Police Service

- 8 (1) Before an inspection of the Police Service of Northern Ireland or Police Service of Northern Ireland Reserve is carried out under section 46, the Chief Inspector must inform those of Her Majesty’s Inspectors of Constabulary who have been appointed under section 41(1) of the Police (Northern Ireland) Act 1998 (c. 32) as inspectors of constabulary for Northern Ireland.
- (2) If those inspectors notify the Chief Inspector that they wish to carry out the inspection, the Chief Inspector must delegate its carrying out to them under paragraph 7.
- (3) If those inspectors do not notify the Chief Inspector that they wish to carry out the inspection, the Chief Inspector must, before the inspection or review is carried out, consult the Secretary of State with a view to obtaining his approval of the inspection which it is proposed to carry out.

Miscellaneous

- 9 The Chief Inspector is a corporation sole.
- 10 (1) The Chief Inspector is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Chief Inspector’s property is not to be regarded as property of, or held on behalf of, the Crown.
- 11 The Chief Inspector may do anything, apart from borrowing money, which he considers is—
- (a) appropriate for facilitating, or

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- (b) incidental or conducive to, the exercise of his functions.
- 12 The application of the seal of the Chief Inspector is to be authenticated by the signature of the Chief Inspector or any member of his staff who has been authorised (whether generally or specially) for the purpose.
- 13 A document purporting to be—
- (a) duly executed by the Chief Inspector under his seal, or
 - (b) signed on his behalf,
- is to be received in evidence and is, unless the contrary is proved, to be taken to be so executed or signed.

Disqualification

- 14 In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (disqualifying offices), insert (at the appropriate place in alphabetical order)—
- “Chief Inspector of Criminal Justice in Northern Ireland.”
- 15 In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (disqualifying offices), insert (at the appropriate place in alphabetical order)—
- “Chief Inspector of Criminal Justice in Northern Ireland.”

Freedom of information

- 16 In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities), insert (at the appropriate place in alphabetical order)—
- “The Chief Inspector of Criminal Justice in Northern Ireland.”

SCHEDULE 9

Section 50

LAW COMMISSION

Commissioners' tenure

- 1 (1) Subject as follows, a Commissioner holds office for the period specified in his appointment (or re-appointment).
- (2) A person may not be appointed as a Commissioner for more than five years at a time.
 - (3) A Commissioner may resign by notice in writing to the Secretary of State.
 - (4) The Secretary of State may dismiss a Commissioner if satisfied that—
 - (a) he has without reasonable excuse failed to exercise his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal,
 - (b) he has been convicted of a criminal offence,

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- (c) a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
- (d) he is otherwise unable or unfit to exercise his functions.

Commissioners holding judicial office

- 2 (1) A person who holds judicial office may be appointed as a Commissioner without relinquishing that office.
- (2) But he is not, unless the terms of his appointment provide otherwise, required to perform the duties of his judicial office while he is a Commissioner.

Salary etc. of Commissioners not holding full-time judicial office

- 3 (1) The Commission must pay to or in respect of each Commissioner, other than a Commissioner who holds a full-time judicial office, any such—
- (a) salary,
 - (b) allowances,
 - (c) fees, or
 - (d) sums for the provision of pensions,
- as the Secretary of State may determine.
- (2) If a person who, by reference to any office or employment, is a participant in a scheme under section 1 of the Superannuation Act 1972 (c. 11) becomes a Commissioner, the Minister for the Civil Service may determine that (instead of payments being made to him under sub-paragraph (1)(d)) his service as Commissioner is to be treated for the purposes of the scheme as service in that office or employment.
- (3) The Commission must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (2) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Staff

- 4 (1) The Commission may employ staff, but subject to the approval of the Secretary of State as to—
- (a) numbers,
 - (b) salary, and
 - (c) other terms of employment.
- (2) The Commission may make arrangements for securing the provision to it of such assistance by persons employed in—
- (a) the civil service of the United Kingdom,
 - (b) the civil service of Northern Ireland, or
 - (c) the Court Service,
- as it considers appropriate for or in connection with the exercise of its functions.
- (3) Employment as a member of staff of the Commission is among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply; and, accordingly, in Schedule 1 to that Act

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(employments etc. to which section 1 can apply), at the appropriate place in the list of “Royal Commissions and other Commissions” insert—

“Northern Ireland Law Commission.”

- (4) The Commission must pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (3) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Financial provisions

- 5 The Secretary of State may make grants to the Commission.
- 6 (1) The Commission must—
- (a) keep proper accounts and proper financial records, and
 - (b) prepare in respect of each financial year a statement of accounts.
- (2) The statement of accounts must—
- (a) contain such information, and
 - (b) be in such form,
- as the Secretary of State directs.
- (3) The Commission must send copies of the statement of accounts relating to a financial year to—
- (a) the Secretary of State, and
 - (b) the Comptroller and Auditor General,
- within such period after the end of the financial year as the Secretary of State directs.
- (4) The Comptroller and Auditor General must—
- (a) examine, certify and report on the statement of accounts, and
 - (b) lay a copy of the statement of accounts and of his report on it before each House of Parliament.
- (5) In this paragraph “financial year” means—
- (a) the period beginning with the day on which section 50 comes into force and ending with the first 31st March which falls at least six months after that day, and
 - (b) each subsequent period of twelve months beginning with 1st April.

Miscellaneous

- 7 The exercise by the Commission of its functions is not affected by—
- (a) any vacancy among the Commissioners, or
 - (b) any defect in the appointment of a Commissioner.
- 8 (1) The Commission is not to be regarded—
- (a) as the servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The Commission’s property is not to be regarded as property of, or held on behalf of, the Crown.

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- 9 The Commission may do anything, apart from borrowing money, which it considers is—
- (a) appropriate for facilitating, or
 - (b) incidental or conducive to,
- the exercise of its functions.
- 10 The application of the seal of the Commission is to be authenticated by the signature of any Commissioner or member of staff of the Commission who has been authorised (whether generally or specially) for the purpose.
- 11 Any contract or instrument which, if entered into or executed by an individual, would not require to be under seal may be entered into or executed on behalf of the Commission by any person who has been authorised (whether generally or specially) for the purpose.
- 12 A document purporting to be—
- (a) duly executed by the Commission under its seal, or
 - (b) signed on its behalf,
- is to be received in evidence and is, unless the contrary is proved, to be taken to be so executed or signed.

Disqualification

- 13 In Part 2 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
- “The Northern Ireland Law Commission.”
- 14 In Part 2 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c. 25) (bodies of which all members are disqualified), insert (at the appropriate place in alphabetical order)—
- “The Northern Ireland Law Commission.”

Freedom of information

- 15 In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (public authorities), insert (at the appropriate place in alphabetical order)—
- “The Northern Ireland Law Commission.”

SCHEDULE 10

Section 62

YOUTH JUSTICE ORDERS: ENFORCEMENT ETC.

The Schedule to be inserted after Schedule 1 to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) is as follows—

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“SCHEDULE 1A

Articles 36D, 36I and 36K

BREACH, REVOCATION AND AMENDMENT OF REPARATION ORDERS, COMMUNITY RESPONSIBILITY ORDERS AND YOUTH CONFERENCE ORDERS

Introductory

- 1 (1) In this Schedule “relevant order” means a reparation order, a community responsibility order or a youth conference order.
- (2) In this Schedule “the appropriate court”, in relation to a relevant order, means a youth court acting for the petty sessions district for the time being named in the order under Article 36D(1), 36I(1) or 36K(5).
- (3) For the purposes of this Schedule a relevant order made on an appeal brought from a magistrates’ court is to be treated as if made by the magistrates’ court; and a relevant order made on appeal brought from the Crown Court or from the Court of Appeal is to be treated as if made by the Crown Court.

Breach of relevant order

- 2 (1) Paragraphs and make provision for dealing with an offender if, while a relevant order is in force in respect of him, it is proved to the satisfaction of the appropriate court, on the application of the responsible officer, that the offender has failed to comply with any requirement of the order.
- (2) But nothing in those paragraphs prevents the appropriate court from making an order revoking, amending or extending the relevant order under paragraph 5 in such circumstances.
- (3) In dealing with an offender under paragraph or , a court must take into account the extent to which he has complied with the requirements of the relevant order.
- (4) An offender who is required by a youth conference order to submit to treatment for a mental condition, or for a dependency on drugs or alcohol, is not to be treated for the purposes of paragraph or as having failed to comply with that requirement on the ground only that he has refused to undergo any treatment if, in the opinion of the court, his refusal was reasonable having regard to all the circumstances.

Order as punishment for breach

- 3 (1) The court may—
 - (a) in the case of a reparation order, make an attendance centre order in respect of the offender; or
 - (b) in the case of a community responsibility order or a youth conference order, make an attendance centre order or a community service order in respect of him.
- (2) The court may make an order under sub-paragraph (1) whether or not it also makes an order revoking, amending or extending the relevant order under paragraph .
- (3) Articles 37 and 38 of this Order have effect in relation to attendance centre orders under sub-paragraph (1), but as if the references in paragraph (1) of Article 37 to any court having (or, but for certain provisions, having) the power mentioned in that paragraph were to the appropriate court.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (4) Article 13(1), (4), (6), (7)(b) to (9) and (11) and Article 14 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24) have effect in relation to community service orders under sub-paragraph (1)(b), but as if—
 - (a) the reference in paragraph (1) of Article 13 to a court by or before which a person is convicted of an offence punishable with imprisonment were to the appropriate court; and
 - (b) the reference in that paragraph to the age of a person when convicted were to his age when the appropriate court determines that he has failed to comply with any requirement in a community responsibility order or youth conference order.
- (5) Article 13(2) of that Order has effect in relation to community service orders under sub-paragraph (1)(b), but as if for sub-paragraphs (a) and (b) there were substituted “not more than 60 hours”.
- (6) Schedule 2 to that Order has effect in relation to a community service order under sub-paragraph (1)(b), but as if references to the offence were to the failure to comply with the order in respect of which the community service order was made.
- (7) Article 8(1) and (2) and Article 9 of that Order do not apply to any order under sub-paragraph (1).

Re-sentencing for breach

- 4 (1) Where the relevant order was made by a magistrates’ court, the appropriate court may (instead of making an order under paragraph)—
 - (a) revoke the order (if it is still in force); and
 - (b) deal with the offender, for the offence in respect of which it was made, in any way in which it could deal with him if he had just been found guilty of the offence by the court.
- (2) Where the relevant order was made by the Crown Court, the appropriate court may (instead of making an order under paragraph) commit the offender to custody or release him on bail until he can be brought or appear before the Crown Court.
- (3) Where the appropriate court deals with an offender under sub-paragraph (2), it must send to the Crown Court a certificate signed by a resident magistrate giving—
 - (a) particulars of the offender’s failure to comply with the requirement in question; and
 - (b) such other particulars of the case as may be desirable;and a certificate purporting to be so signed is admissible as evidence of the failure before the Crown Court.
- (4) Where it is proved to the satisfaction of the Crown Court that an offender brought or appearing before the court by virtue of sub-paragraph (2) has failed to comply with the requirement in question, the court may—
 - (a) revoke the order (if it is still in force); and
 - (b) deal with the offender, for the offence in respect of which it was made, in any way in which it could deal with him if he had just been found guilty of the offence by or before the court.
- (5) In proceedings before the Crown Court under sub-paragraph (4) any question whether the offender has failed to comply with the requirements of the relevant order is to be determined by the Crown Court and not by the verdict of a jury.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (6) In dealing under this paragraph with an offender who has wilfully and persistently failed to comply with a requirement, the court may assume that he has refused to give his consent to a community sentence which has been proposed by the court and requires that consent or a youth conference order.

Revocation, amendment and extension of relevant order

- 5 (1) If, while a relevant order is in force in respect of an offender, it appears to the relevant court, on the application of the responsible officer or the offender, that it is appropriate to do so, the court may—
- (a) make an order revoking the relevant order;
 - (b) make an order amending the relevant order; or
 - (c) make an order extending the period specified in Article 3C(5), 36C(3)(b) or 36G(4).
- (2) In this paragraph “the relevant court” means—
- (a) the appropriate court, if the relevant order was made by a magistrates’ court; and
 - (b) the Crown Court, if the relevant order was made by the Crown Court.
- (3) The relevant court may make an order under paragraph (c) of sub-paragraph (1) whether or not it also makes an order under paragraph (b) of that sub-paragraph.
- (4) An order under sub-paragraph (1)(b) may amend a relevant order by—
- (a) cancelling any provision of it; or
 - (b) inserting in it (either in addition to or in substitution for any of its provisions) any provision which the relevant court could include if it were then making the order.
- (5) The relevant court must not make an order under sub-paragraph (1)(b) or (c) unless the offender consents.
- (6) But sub-paragraph (5) does not apply to an order—
- (a) cancelling a requirement of the relevant order;
 - (b) reducing the period of any requirement;
 - (c) substituting a new petty sessions district for the one specified in the relevant order; or
 - (d) substituting a new responsible officer for the one specified in the relevant order.
- (7) The relevant court must not make an order under sub-paragraph (1) amending a youth conference order on the application of the offender unless the relevant court has consulted the responsible officer.
- (8) The relevant court must not make an order under sub-paragraph (1)(b) or (c) in relation to a reparation order or youth conference order which affects any action required to be taken by the offender in relation to another person unless that other person agrees.
- (9) The relevant court must not make an order under sub-paragraph (1)(b) or (c) in relation to a youth conference order which affects any action falling to be taken by a person other than the offender unless that person agrees.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (10) Where an application under sub-paragraph (1)(a) for the revocation of a relevant order is dismissed, no further application for its revocation may be made under that sub-paragraph by any person except with the consent of the relevant court.

Dealing with relevant order when sentencing after subsequent conviction

- 6 (1) This paragraph applies where an offender in respect of whom a relevant order is in force is dealt with for an offence by the appropriate court, a court of summary jurisdiction other than the appropriate court or the Crown Court.
- (2) The court may do anything which it could do under paragraph 5 in relation to the order if an application were made to it by the responsible officer (and, in the case of a court which is not the relevant court, it were the relevant court).
- (3) If the court is the appropriate court or a court of summary jurisdiction other than the appropriate court and the order was made by the Crown Court, sub-paragraph (2) does not apply but the court may commit the offender to custody or release him on bail until he can be brought or appear before the Crown Court.
- (4) Where a court deals with an offender's case under sub-paragraph (3), it must send to the Crown Court such particulars of the case as may be desirable.
- (5) Where by virtue of that sub-paragraph an offender is brought or appears before the Crown Court, the Crown Court may do anything which it could do under paragraph 5 if an application were made to it by the responsible officer.

Copies of revoking, amending or extending order

- 7 (1) On the making of an order under this Schedule revoking, amending or extending a relevant order, the clerk to the court must immediately give a copy of the revoking, amending or extending order to the responsible officer.
- (2) The responsible officer must give a copy of the revoking, amending or extending order to—
- (a) the offender subject to the relevant order; and
 - (b) his parent or guardian or, if he is in the care of an authority (within the meaning of the Children (Northern Ireland) Order 1995 (N.I. 2)), a social worker of the authority.
- (3) Where an amending order amends a relevant order by substituting a new petty sessions district for the one specified in the relevant order, the clerk to the court must also send to the clerk of petty sessions for the new district—
- (a) a copy of the amending order; and
 - (b) such documents and information relating to the case as he considers likely to be of assistance to a youth court acting for that district in exercising its functions in relation to the order.

Presence of offender in court, remands etc.

- 8 (1) Where the responsible officer makes an application to a court under paragraph or , he may bring the offender before the court; and, subject to sub-paragraph (8), a court must not make an order under paragraph , , or 6 unless the offender is present before the court.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (2) The court to which an application under paragraph 2 is made, or which is considering exercising its powers under paragraph 6, may issue a summons or warrant for the purpose of securing the attendance of the offender before it.
- (3) Where the offender has failed to appear in answer to a summons, the court must not issue a warrant under sub-paragraph (2) for his arrest unless it is proved that—
 - (a) the summons was duly served on him;
 - (b) he is evading service; or
 - (c) the summons cannot be served on him.
- (4) Where the offender has failed to appear at an adjourned hearing, the court must not issue a warrant under sub-paragraph (2) unless it is satisfied that reasonable steps have been taken to bring to his attention notice of the time and place of the adjourned hearing.
- (5) Where the offender is arrested under a warrant issued under sub-paragraph (2) and cannot be brought immediately before the court by which the warrant was issued, the person in whose custody he is—
 - (a) may make arrangements for his detention in a place of safety for a period of not more than 72 hours from the time of the arrest (and it is lawful for him to be detained under the arrangements); and
 - (b) must within that period bring him before the Crown Court (if the warrant was issued by that court and it is reasonably practicable to bring him before that court within that period) or (otherwise) a youth court.
- (6) Where an offender is brought under sub-paragraph (5)(b) before a youth court which is not the court by which the warrant was issued, that youth court may—
 - (a) direct that he be immediately released on bail until he can appear before the court by which the warrant was issued; or
 - (b) remand him to the place to which it would remand him if making an order under Article 13, or (if he is aged 18 or over) to a remand centre, until he can be brought before that court.
- (7) Where an application is made to a court under paragraph 2 or 3, or a court is considering exercising its powers under paragraph 6, the court may remand (or further remand) the offender as specified in sub-paragraph (6)(b) if—
 - (a) a warrant has been issued under sub-paragraph (2) for the purpose of securing his attendance before the court; or
 - (b) the court considers that remanding (or further remanding) him will enable information to be obtained which is likely to assist the court in deciding whether and, if so, how to exercise its powers.
- (8) A court may make an order under paragraph 4 in the absence of the offender if the effect of the order is confined to one or more of the following—
 - (a) revoking the relevant order;
 - (b) cancelling a requirement of the relevant order;
 - (c) reducing the period of any requirement;
 - (d) substituting a new petty sessions district for the one specified in the relevant order; and
 - (e) substituting a new responsible officer for the one specified in the relevant order.”

Status: Point in time view as at 16/04/2007.

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SCHEDULE 11

Section 63

EXTENSION OF YOUTH JUSTICE SYSTEM TO 17 YEAR OLDS

Costs in Criminal Cases Act (Northern Ireland) 1968 (c. 10 (N.I.))

- 1 In section 2(1A) of the Costs in Criminal Cases Act (Northern Ireland) 1968 (costs ordered by magistrates' court to be paid by person under 17 not to exceed amount of fine imposed on him), for “seventeen” substitute “ eighteen ”.

PROSPECTIVE

Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.))

- 2 In section 9(1) of the Treatment of Offenders Act (Northern Ireland) 1968 (remand and committal of persons between 17 and 21), for “seventeen” substitute “ eighteen ”.

Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))

- 3 In Article 6(2) of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (rehabilitation periods for certain orders)—
- (a) in sub-paragraph (a), for “seventeen” substitute “ eighteen ”, and
 - (b) in the heading of Table A, for “17” substitute “ 18 ”.

Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))

- 4 In Article 45(4) of the Magistrates' Courts (Northern Ireland) Order 1981 (summary trial of persons 17 or over), for “seventeen” substitute “ eighteen ”.

PROSPECTIVE

Treatment of Offenders (Northern Ireland) Order 1989 (S.I. 1989/1344 (N.I. 15))

- 5 In Article 13(1) of the Treatment of Offenders (Northern Ireland) Order 1989 (removal to young offenders centre of persons between 17 and 21), for “17” substitute “ 18 ”.

Criminal Justice (Northern Ireland) Order 1994 (S.I. 1994/2795 (N.I. 15))

- 6 In Article 14(11) of the Criminal Justice (Northern Ireland) Order 1994 (compensation to be paid under compensation order made against offender under 17 not to exceed £1,000), for “17” substitute “ 18 ”.

Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24))

- 7 The Criminal Justice (Northern Ireland) Order 1996 has effect subject to the following amendments.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 8 In Article 5(9) (conditional discharge in case of offender under 17: exercise of powers once 17 or over), for “17” (in both places) substitute “ 18 ”.
- 9 In Article 6(2) (effect of discharge where offender 17 or over), for “17” substitute “ 18 ”.
- 10 In Article 7(1)(b) (power to require offender between 14 and 17, or his parent or guardian, to give security for good behaviour of offender), for “17” substitute “ 18 ”.
- 11 In Article 9(5) (court not to dispense with need for pre-sentence report before passing community sentence on person under 17 unless it relies on previous report), for “17” substitute “ 18 ”.
- 12 In Article 21(3) (court not to dispense with need for pre-sentence report before passing custodial sentence on person under 17 unless it relies on previous report), for “17” substitute “ 18 ”.
- 13 In Article 29(4)(c) (fixing of fine where parent or guardian of offender under 17 has failed to comply with financial circumstances order etc.), for “17” substitute “ 18 ”.
- 14 In Article 31(3) (false statements as to financial circumstances in cases where persons charged are under 17), for “17” substitute “ 18 ”.
- 15 In Article 34(2) (copy of report of probation officer to be given to parent or guardian of offender under 17), for “17” substitute “ 18 ”.

Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

- 16 The Criminal Justice (Children) (Northern Ireland) Order 1998 has effect subject to the following amendments.
- 17 In Article 2(2) (interpretation), in the definitions of “adult” and “child”, for “17” substitute “ 18 ”.
- 18 In Article 30(2) and (3) (powers of youth court where child becomes an adult), for “17” substitute “ 18 ”.
- 19 In Article 45 (punishment of certain grave crimes)—
- (a) in paragraph (1), for “under the age of 18” substitute “ a child ”,
 - (b) in paragraphs (4) and (5), for “person” substitute “ child ”, and
 - (c) in paragraph (6), for “person will, in the opinion of the Secretary of State, attain the age of 18” substitute “ child will, in the opinion of the Secretary of State, become an adult ”.
- 20 In Article 53 (parental responsibility for children in juvenile justice centres), for “person detained by the managers of a juvenile justice centre is under the age of 18” substitute “ child is being detained by the managers of a juvenile justice centre ”.
- 21 In Article 54 (escapes from juvenile justice centres)—
- (a) in paragraph (1), for “under the age of 18” substitute “ still a child ”,
 - (b) omit paragraph (3)(b), and
 - (c) in paragraph (4), for “paragraph (3)(b)(ii) or (c)” substitute “ paragraph (3) (c) ”.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Terrorism Act 2000 (c. 11)

22 F46

Textual Amendments

F46 Sch. 11 paras. 22-24 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\), s. 5, Sch.](#)

23 F47

Textual Amendments

F47 Sch. 11 paras. 22-24 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\), s. 5, Sch.](#)

24 F48

Textual Amendments

F48 Sch. 11 paras. 22-24 repealed (19.2.2006) by [Terrorism \(Northern Ireland\) Act 2006 \(c. 4\), s. 5, Sch.](#)

SCHEDULE 12

Section 85

MINOR AND CONSEQUENTIAL AMENDMENTS

Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.))

1 Section 18(3) of the Criminal Justice Act (Northern Ireland) 1945 (prosecution of offences against a corporation) shall continue to have effect with the substitution (originally made by Article 10 of the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1))) of “an indictment has been presented” for the words from “a grand jury” to “a true Bill”.

Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))

2 Section 20(3) of the Interpretation Act (Northern Ireland) 1954 (offences by bodies corporate) shall continue to have effect with the substitution (originally made by Article 9(3) of the Prosecution of Offences (Northern Ireland) Order 1972) of “except by or with the consent of the Attorney-General or the Director of Public Prosecutions for Northern Ireland” for “except upon the direction of the Attorney-General”.

County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))

3 The County Courts Act (Northern Ireland) 1959 has effect subject to the following amendments.

4 (1) Section 102 (appointment and assignment of judges) is amended as follows.

(2) In subsection (4) (assignment of one judge to each division), for “one judge” substitute “one or more judges”.

Status: Point in time view as at 16/04/2007.

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- (3) In subsection (5) (judge assigned to Belfast or Londonderry to be Recorder), after “judge” insert “, or (if more than one) one of the judges, ”.
- 5 In section 106(2) (salary payable to judge from date on which he takes the oaths required by section 105(3)), for “oaths required by section 105(3)” substitute “ required oath or makes the required affirmation and declaration ”.

Electoral Law Act (Northern Ireland) 1962 (c. 14 (N.I.))

- 6 Sections 73, 96, 97, 106(1) and 120 of, and paragraph 12 of Schedule 8 to, the Electoral Law Act (Northern Ireland) 1962 (prosecution of offences disclosed on election petitions) shall continue to have effect with the substitution (originally made by Article 9(1) of the Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1)) of “The Director of Public Prosecutions for Northern Ireland” for “The Chief Crown Solicitor”.

Law Commissions Act 1965 (c. 22)

- 7 The Law Commissions Act 1965 has effect subject to the following amendments.
- 8 In section 1(1) (purpose of Law Commission), after “of the law” insert “ of England and Wales ”.
- 9 In section 3(4) (duty of Law Commission and Scottish Law Commission to consult each other), insert at the end “ and the Northern Ireland Law Commission ”.

VALID FROM 12/04/2010

Administration of Justice Act 1973 (c. 15)

- 10 The Administration of Justice Act 1973 has effect subject to the following amendments.

VALID FROM 12/04/2010

- 11 In section 9(5) (judicial salaries), after “Salaries payable” insert “ under subsection (1)(d) shall be charged on and paid out of the Consolidated Fund of Northern Ireland and other salaries payable ”.

VALID FROM 12/04/2010

- 12 In section 12(1) (retirement of higher judiciary in event of incapacity), after “Northern Ireland” insert “ (other than a judge to whom section 7 of the Justice (Northern Ireland) Act 2002 applies) ”.

Status: Point in time view as at 16/04/2007.

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PROSPECTIVE

Judicature (Northern Ireland) Act 1978 (c. 23)

F49 13

Textual Amendments

F49 Sch. 12 para. 13 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 4 para. 37 (with Sch. 5 para. 16); S.I. 2010/812, art. 2

PROSPECTIVE

Rehabilitation of Offenders (Northern Ireland) Order 1978 (S.I. 1978/1908 (N.I. 27))

14 In Article 6(6) of the Rehabilitation of Offenders (Northern Ireland) Order 1978 (rehabilitation periods for certain orders), after sub-paragraph (b) insert—
“(ba) a custody care order under Article 44A of that Order of 1998;”.

Criminal Appeal (Northern Ireland) Act 1980 (c. 47)

- 15 (1) Section 9 of the Criminal Appeal (Northern Ireland) Act 1980 (appeal to Court of Appeal) is amended as follows.
- (2) In subsection (2)—
- (a) in paragraph (a), after “1996” insert “ or a youth conference order ”, and
 - (b) in paragraph (b), after “community order” insert “ or the youth conference order ”.
- (3) In subsection (3)(c), for “paragraph 4(1)(a)” substitute “ paragraph (a), or against whom an order is made under paragraph (b) or (c), of paragraph 4(1) ”.
- (4) After that subsection insert—
- “(3A) A person may appeal to the Court of Appeal against a decision under paragraph 8 of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24)) not to revoke an order which is in force with respect to him; and on such an appeal the Court of Appeal may do anything which the Crown Court could do under that paragraph.
- (3B) A person may appeal to the Court of Appeal against the dismissal of an application to the Crown Court under paragraph 5 of Schedule 1A to the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)) to make an order under sub-paragraph (1) of that paragraph.”

Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))

16 The Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 has effect subject to the following amendments.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- 17 In Article 1(3) (power to bring into force paragraphs 1(b) and 5 of Part 1 of Schedule 1 to that Order), for “Paragraphs 1(b) and 5” substitute “Paragraph 1(b)”.

PROSPECTIVE

- 18 F50

Textual Amendments

F50 Sch. 12 paras. 18-22 repealed (2.11.2003) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), arts. 1(2), 49(2), **Sch. 5** (with art. 45); S.R. 2003/440, **art. 3**, Sch.

PROSPECTIVE

- 19 F51

Textual Amendments

F51 Sch. 12 paras. 18-22 repealed (2.11.2003) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), arts. 1(2), 49(2), **Sch. 5** (with art. 45); S.R. 2003/440, **art. 3**, Sch.

PROSPECTIVE

- 20 F52

Textual Amendments

F52 Sch. 12 paras. 18-22 repealed (2.11.2003) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), arts. 1(2), 49(2), **Sch. 5** (with art. 45); S.R. 2003/440, **art. 3**, Sch.

PROSPECTIVE

- 21 F53

Textual Amendments

F53 Sch. 12 paras. 18-22 repealed (2.11.2003) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), arts. 1(2), 49(2), **Sch. 5** (with art. 45); S.R. 2003/440, **art. 3**, Sch.

PROSPECTIVE

- 22 F54

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

Textual Amendments

F54 Sch. 12 paras. 18-22 repealed (2.11.2003) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), arts. 1(2), 49(2), Sch. 5 (with art. 45); S.R. 2003/440, art. 3, Sch.

- 23 In Article 28(2) (free legal aid in the magistrates' court: representation by counsel), for "proceedings" substitute "defence".
- 24 In Article 31 (resolution of doubts), after "28," insert "28A,".
- 25 In Article 32 (statements for purposes of free legal aid), after "28," insert "28A,".
- 26 In Article 36(3) (rules about free legal aid in criminal proceedings), after subparagraph (b) insert—
“(bb) the form for the purpose of Article 28A(2)(a);”.
- 27 In Article 39 (interpretation of Part 3)—
(a) after the definition of “the certifying authority” insert—
““child” has the meaning given in Article 2(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (N.I. 9);
“court-ordered youth conference” has the meaning assigned to that expression by Article 33A(5) of the Criminal Justice (Children) (Northern Ireland) Order 1998;”
(b) in the definition of “criminal aid certificate” after “28(1),” insert “28A(3),”, and
(c) after that definition insert—
““diversionary youth conference” has the meaning assigned to that expression by Article 10A(2) of the Criminal Justice (Children) (Northern Ireland) Order 1998;”.

Commencement Information

I2 Sch. 12 para. 27 wholly in force at 30.8.2005; Sch. 12 para. 27 not in force at Royal Assent see s. 87; Sch. 12 para. 27 in force for certain purposes at 1.12.2003 by S.R. 2003/488, art. 2, Sch.; Sch. 12 para. 27 in force for remaining purpose at 30.8.2005 by S.R. 2005/391, art. 2, Sch. para. 9(a)

PROSPECTIVE

F55 28

Textual Amendments

F55 Sch. 12 para. 28 repealed (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435), art. 1(2), Sch. 5 (with art. 45); S.R. 2015/194, art. 2, Sch. (with art. 3)

Magistrates' Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))

- 29 The Magistrates' Courts (Northern Ireland) Order 1981 has effect subject to the following amendments.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

- 30 In Article 47(6) (period of remand), after “1998” insert “; and
(ba) a custody care order within the meaning of that Order.”
- 31 (1) Article 140 (appeals to county court) is amended as follows.
- (2) In paragraph (2), for “made on conviction,” substitute “ passed on the person for the offence, whether on conviction or in subsequent proceedings, ”.
- (3) After that paragraph insert—
- “(2A) A person may appeal to a county court against—
- (a) a fine imposed under paragraph (a), or an order made under paragraph (b) or (c), of paragraph 3(1) of Schedule 2 to the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24);
 - (b) the dismissal of an application under Part 3 or 4 of that Schedule;
 - (c) a fine imposed, or an order made, under Article 41(2) or 44F(3) or (4) of the Criminal Justice (Children) (Northern Ireland) Order 1998 (N.I. 9);
 - (d) an order made under Article 44C(3)(a) or 54(3)(a) of that Order;
 - (e) an order made under paragraph 3 of Schedule 1A to that Order; or
 - (f) the dismissal of an application under paragraph 5 of that Schedule (otherwise than to the Crown Court) to make an order under sub-paragraph (1) of that paragraph.”

Commencement Information

- I3** [Sch. 12 para. 31](#) partly in force; [Sch. 12 para. 31](#) not in force at Royal Assent, see [s. 87](#); [Sch. 12 para. 31](#) in force for certain purposes at 1.12.2003 by [S.R. 2003/488](#), [art. 2](#), [Sch.](#)

PROSPECTIVE

- Child Abduction (Northern Ireland) Order 1985 (S.I. 1985/1638 (N.I. 17))*
- 32 The Child Abduction (Northern Ireland) Order 1985 has effect subject to the following amendments.

PROSPECTIVE

- 33 In Article 3(7) (application of offence of abduction of child in care or subject to certain orders) insert at the end “or a custody care order.”

PROSPECTIVE

- 34 (1) Paragraph 4 of the Schedule (modifications of Article 3 for children in certain cases) is amended as follows.
- (2) In sub-paragraph (1), after “order” insert “ or a custody care order ”.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(3) In sub-paragraph (2)(a)—

- (a) after “consent of” insert “, in the case of a juvenile justice centre order,”, and
- (b) after “juvenile justice centre” insert “ or, in the case of a custody care order, the appropriate authority within the meaning of the Criminal Justice (Children) (Northern Ireland) Order 1998 ”.

(4) In sub-paragraph (3), insert at the end “ and “custody care order” has the same meaning as in Article 44A of that Order. ”

PROSPECTIVE

Mental Health (Northern Ireland) Order 1986 (S.I. 1986/ 595 (N.I. 4))

35 The Mental Health (Northern Ireland) Order 1986 has effect subject to the following amendments.

PROSPECTIVE

36 In Article 44(8) (orders which can be made in conjunction with hospital or guardianship orders), for the words from “including” to the end substitute “ including juvenile justice centre orders and custody care orders under the Criminal Justice (Children) (Northern Ireland) Order 1998. ”

PROSPECTIVE

37 In Article 50A(7) (remitting persons for trial following detention in hospital)—
(a) after sub-paragraph (d) insert “; or
(e) to secure accommodation;”, and
(b) for “or juvenile justice centre” substitute “ , juvenile justice centre or secure accommodation ”.

PROSPECTIVE

38 In Article 53(5)(a) (removal to hospital of certain persons serving sentences of imprisonment), for the words from “including” to “juvenile justice centre” substitute “ including juvenile justice centre orders and custody care orders under the Criminal Justice (Children) (Northern Ireland) Order 1998 (N.I. 9) ”.

PROSPECTIVE

39 (1) Article 56 (further provision as to prisoners under sentence) is amended as follows.
(2) In paragraph (1)—
(a) for “or juvenile justice centre” substitute “ , juvenile justice centre or secure accommodation ”, and

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

(b) in sub-paragraph (b), after “juvenile justice centre” insert “ or the authority providing the secure accommodation ”.

(3) In paragraph (3), for “or juvenile justice centre” substitute “ , juvenile justice centre or secure accommodation ”.

PROSPECTIVE

40 (1) Article 61 (interpretation) is amended as follows.

(2) In paragraph (1A)—

(a) for “means any juvenile justice centre,” substitute “ means any young offenders centre, any juvenile justice centre, any secure accommodation, ”, and

(b) insert at the end “ ; and in this paragraph “young offenders centre” has the meaning assigned to it by section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.)). ”

(3) After paragraph (1A) insert—

“(1B) In this Part “secure accommodation” means accommodation provided by an authority (within the meaning of the Children (Northern Ireland) Order 1995 (N.I. 2)) for the purpose of restricting liberty.”

VALID FROM 12/04/2010

Criminal Justice Act 1988 (c. 33)

41 In paragraph 12 of Schedule 3 to the Criminal Justice Act 1988 (reviews of sentencing: supplementary), for “Attorney General for Northern Ireland” substitute “ Director of Public Prosecutions for Northern Ireland ”.

PROSPECTIVE

Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12))

42 The Police and Criminal Evidence (Northern Ireland) Order 1989 has effect subject to the following amendments.

PROSPECTIVE

43 (1) Article 2(2) (interpretation) is amended as follows.

(2) After the definition of “items subject to legal privilege” insert—

““juvenile justice centre” has the same meaning as in the Criminal Justice (Children) (Northern Ireland) Order 1998;”.

(3) After the definition of “recordable offence” insert—

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

““secure accommodation” means accommodation provided by an authority (within the meaning of the Children (Northern Ireland) Order 1995) for the purpose of restricting liberty;”.

(4) At the end insert—

““young offenders centre” has the meaning assigned to it by section 2(a) of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.));”.

PROSPECTIVE

44 In Article 2(5) (definition of “custodial establishment”), after “juvenile justice centre” insert “, secure accommodation ”.

PROSPECTIVE

45 In Article 19(1)(ca) (entry for purpose of arrest), after “juvenile justice centre” insert “ or secure accommodation ”.

PROSPECTIVE

46 In Article 39(8) (place of safety), for “means any juvenile justice centre,” substitute “ means any young offenders centre, any juvenile justice centre, any secure accommodation, ”.

Child Support Act 1991 (c. 48)

47 In paragraph 8 of Schedule 4 to the Child Support Act 1991 (application to Northern Ireland of provisions about Child Support Commissioners), after sub-paragraph (a) insert—
“(aa) paragraph 1(3) were omitted;”.

PROSPECTIVE

Social Security Contributions and Benefits (Northern Ireland) Act 1992 (c. 7)

48 In Schedule 9 to the Social Security Contributions and Benefits (Northern Ireland) Act 1992, in paragraph 1(1)(b) (exclusion of entitlement to child benefit for children in detention, care, etc.), after “juvenile justice centre” insert “ or kept in secure accommodation under a custody care order ”.

Criminal Appeal Act 1995 (c. 35)

49 (1) Section 22 of the Criminal Appeal Act 1995 (meaning of public body etc.) is amended as follows.
(2) In subsection (3)(a), for “Office of the Director of Public Prosecutions for Northern Ireland” substitute “ Public Prosecution Service for Northern Ireland ”.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

- (3) In subsection (4)(c), for “Office of the Director of Public Prosecutions for Northern Ireland, that Director” substitute “ Public Prosecution Service for Northern Ireland, the Director of Public Prosecutions for Northern Ireland ”.

PROSPECTIVE

Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2))

- 50 The Children (Northern Ireland) Order 1995 has effect subject to the following amendments.

PROSPECTIVE

- 51 In Article 70(7) (provisions which do not apply to those providing refuges for children at risk), after sub-paragraph (b) insert—
“(bb) Article 44C(5) of that Order (escape by child ordered to be kept in secure accommodation under a custody care order);”.

PROSPECTIVE

- 52 In paragraph 4(1)(b) of Schedule 4 (directions under education supervision orders where child is subject to other orders), for “or a juvenile justice centre order” substitute “ , a juvenile justice centre order or a custody care order, ”.

Criminal Justice (Northern Ireland) Order 1996 (S.I. 1996/3160 (N.I. 24))

- 54 The Criminal Justice (Northern Ireland) Order 1996 has effect subject to the following amendments.
- 55 (1) Article 2(2) (interpretation) is amended as follows.
- (2) In the definition of “community order”, after paragraph (c) insert—
“(ca) a reparation order;
(cb) a community responsibility order;”.
- (3) After that definition insert—
““community responsibility order” means an order under Article 36E of the Criminal Justice (Children) (Northern Ireland) Order 1998 (N.I. 9);”.
- (4) In the definition of “custodial sentence”, insert at the end—
“(iv) an order under Article 44A of that Order sending the offender to secure accommodation;”.
- (5) After the definition of “probation period” insert—
““reparation order” means an order under Article 36A of the Criminal Justice (Children) (Northern Ireland) Order 1998;”.
- (6) After the definition of “young offenders centre” insert—

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

““youth conference order” means an order under Article 36J of the Criminal Justice (Children) (Northern Ireland) Order 1998;”.

Commencement Information

I4 Sch. 12 para. 55 partly in force; Sch. 12 para. 55 not in force at Royal Assent, see s. 87; Sch. 12 para. 55(1)-(3)(5)(6) in force at 1.12.2003 by S.R. 2003/488, art. 2, Sch.

56 In Article 9(3) (procedural requirements for community orders), at the end insert—
“(ca) a reparation order; and
(cb) a community responsibility order.”

PROSPECTIVE

57 In Article 18(1) (restriction on imposing sentences of imprisonment or detention on persons not legally represented), after “order” insert “ or custody care order ”.

58 In Article 19(3) (court not prevented from passing custodial sentence if offender refuses to consent to community sentence), insert at the end “or a youth conference order”.

PROSPECTIVE

59 (1) Schedule 2 (enforcement of community orders) is amended as follows.

(2) In paragraph 11(3)—

- (a) after “committed to” insert “ secure accommodation or ”, and
- (b) after “assistance to” insert “ the authority keeping the child in secure accommodation, ”.

(3) In paragraph 18(3)—

- (a) after “committed to” insert “ secure accommodation or ”, and
- (b) after “assistance to” insert “ the authority keeping the child in secure accommodation, ”.

Sex Offenders Act 1997 (c. 51)

60 In section 4(1) of the Sex Offenders Act 1997 (young sex offenders), for paragraph (c) substitute—

- “(c) a period for which a person is ordered to be detained in a juvenile justice centre under Article 39 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9));
- (ca) a period for which a person is ordered to be kept in secure accommodation under Article 44A of that Order;”.

Commencement Information

I5 Sch. 12 para. 60 partly in force; Sch. 12 para. 60 not in force at Royal Assent see s. 87; Sch. 12 para. 60 in force for certain purposes at 30.8.2005 by S.R. 2005/391, art. 2, Sch.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

Police (Northern Ireland) Act 1998 (c. 32)

61 In section 42(3) of the Police (Northern Ireland) Act 1998 (copies of reports of inspectors of constabulary relating to Police Service etc.), insert at the end (but not as part of paragraph (b))—

“and, if the report was received under section 41(2), to the Chief Inspector of Criminal Justice in Northern Ireland.”

PROSPECTIVE

Northern Ireland Act 1998 (c. 47)

62 The Northern Ireland Act 1998 has effect subject to the following amendments.

63 In section 75(3) (duty on public authorities to have regard to need to promote equality of opportunity and good relations between different groups), after paragraph (cd) (inserted by section 38 of this Act) insert—

“(ce) the Chief Inspector of Criminal Justice in Northern Ireland;
(cf) the Northern Ireland Law Commission;”.

Commencement Information

16 Sch. 12 para. 63 wholly in force at 16.4.2007; Sch. 12 para. 63 not in force at Royal Assent, see s. 87; Sch. 12 para. 63 in force for certain purposes at 1.1.2005 by S.R. 2004/502, art. 2; Sch. 12 para. 63 otherwise in force at 16.4.2007 by S.R. 2007/237, art. 2, Sch.

64 In section 76(7) (discrimination by public authorities), after “Probation Board for Northern Ireland;” insert—

“(fa) the Chief Inspector of Criminal Justice in Northern Ireland;
(fb) the Northern Ireland Law Commission;”.

Commencement Information

17 Sch. 12 para. 64 wholly in force at 16.4.2007; Sch. 12 para. 64 not in force at Royal Assent, see s. 87; Sch. 12 para. 64 in force for certain purposes at 1.1.2005 by S.R. 2004/502, art. 2; Sch. 12 para. 64 otherwise in force at 16.4.2007 by S.R. 2007/237, art. 2, Sch.

VALID FROM 12/04/2010

65 (1) Schedule 3 (reserved matters) is amended as follows.

(2) In paragraph 1 (conferral of functions on Ministers of the Crown), insert at the end “apart from the Advocate General for Northern Ireland”.

(3) In paragraph 9 (criminal law, prosecutions etc.), after the second sentence insert—

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“This paragraph does not include any matter concerning the Advocate General for Northern Ireland.”

Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))

66 The Criminal Justice (Children) (Northern Ireland) Order 1998 has effect subject to the following amendments.

67 (1) Article 2 (interpretation) is amended as follows.

(2) In paragraph (2), in the definitions of “community order”, “community sentence” and “custodial sentence”—

(a) insert at the beginning “ “combination order”,”, and

(b) after “ “community sentence”” insert “ , “community service order” ”.

(3) After those definitions insert—

“ “community responsibility order” means an order under Article 36E;

“custody care order” means an order under Article 44A;”.

(4) In that paragraph, after the definition of “custody officer” insert—

“ “Director” means the Director of Public Prosecutions for Northern Ireland;”.

(5) In that paragraph, after the definition of “notice” insert—

“ “Order Book” means the Order Book required to be kept under rule 19 of the Magistrates’ Courts Rules (Northern Ireland) 1984 (SR 1984 No. 225);”.

(6) In that paragraph, after the definition of “parental responsibility” insert—

“ “place of safety” has the same meaning as in Article 39(8) of the Police and Criminal Evidence (Northern Ireland) Order 1989 (N.I. 12);

“police officer” and “police support staff” have the same meaning as in the Police (Northern Ireland) Act 2000 (c. 32);

“probation order” means an order under Article 10 of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24);”.

(7) In that paragraph, after the definition of “relative” insert—

“ “remand centre” has the same meaning as in the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29 (N.I.));

“reparation order” means an order under Article 36A;

“responsible officer”—

(a) in relation to an offender subject to a reparation order, has the meaning assigned to it by Article 36D(2);

(b) in relation to an offender subject to a community responsibility order, has the meaning assigned to it by Article 36E(4); and

(c) in relation to an offender subject to a youth conference order, has the meaning assigned to it by Article 36K(3);

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“secure accommodation” means accommodation provided for the purpose of restricting liberty;”.

(8) At the end of that paragraph insert—

““youth conference” has the meaning given by Article 3A, “diversionary youth conference” has the meaning given by Article 10A(2) and “court-ordered youth conference” has the meaning given by Article 33A(5);

“youth conference co-ordinator” means a person designated under Article 3A(3);

“youth conference order” has the meaning given by Article 36J(2);

“youth conference plan” has the meaning given by Article 3C.”

(9) After paragraph (3) insert—

“(4) References in this Order to an offence punishable, in the case of an adult, with imprisonment are to be construed without regard to any prohibition or restriction imposed by or under any statutory provision on the imprisonment of adults who are under the age of 21.

(5) References in this Order to associated offences are to be construed in accordance with Article 2(7) of the Criminal Justice (Northern Ireland) Order 1996 (N.I. 24).”

Commencement Information

18 Sch. 12 para. 67 partly in force; Sch. 12 para. 67 not in force at Royal Assent, see s. 87; Sch. 12 para. 67 in force for certain purposes at 1.12.2003 by S.R. 2003/488, art. 2, Sch.

PROSPECTIVE

68 In Article 8(3) and (4) (child not released under Article 7), for “a juvenile justice centre” substitute “secure accommodation provided by or on behalf of the appropriate authority”.

69 (1) Article 13 (remand in custody) is amended as follows.

(2) In paragraph (1), for the words after “open court” substitute “and—

- (a) if the child has not attained the age of 14, shall make an order committing him to secure accommodation provided by or on behalf of the appropriate authority;
- (b) if the child has attained the age of 14 but has not attained the age of 17, shall (subject to paragraph (1A)) make an order committing him to a juvenile justice centre; and
- (c) if the child has attained the age of 17, shall (subject to paragraph (1B)) make an order committing him to a young offenders centre.”

(3) After that paragraph insert—

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

“(1A) In the case of a child who has attained the age of 15 but has not attained the age of 17 the court shall make an order committing him to a young offenders centre (and not an order committing him to a juvenile justice centre) if it considers that he is likely to injure himself or another person.

(1B) In the case of a child—

- (a) who has attained the age of 17 but who, at the time of the court’s first decision in respect of the offence in question not to release him on bail, has not attained the age of 17 years and six months; and
- (b) who has not had a custodial sentence imposed on him within the last two years,

the court shall make an order committing him to a juvenile justice centre (and not an order committing him to a young offenders centre) if, after considering a report made by a probation officer, it considers that it is in his best interests to make such an order.

(1C) An order under this Article shall commit the child for the period for which he is remanded or until he is brought back before the court.”

Commencement Information

I9 Sch. 12 para. 69 partly in force; Sch. 12 para. 69 not in force at Royal Assent see s. 87; Sch. 12 para. 69(3) in force and Sch. 12 para. 69(1) in force for certain purposes at 30.8.2005 by S.R. 2005/391, art. 2, Sch.

- 70 In Article 30(3) (powers of youth court when child becomes adult)—
- (a) after “a community order” insert “, a youth conference order”, and
 - (b) after “the community order” (in both places) insert “ or youth conference order”.
- 71 In Article 37(4) (requirements of attendance centre orders), for the words from “be such” to the end substitute “, so far as practicable, be such as to avoid any conflict with the child’s religious beliefs and any interference with the times, if any, at which he normally works or attends a school or other educational establishment.”
- 72 In Article 39(1) (juvenile justice centre orders)—
- (a) after “a child” insert “ who has attained the age of 14”, and
 - (b) for “to which Article 45(1) applies” substitute “ the sentence for which is, in the case of an adult, fixed by law as imprisonment for life”.

Commencement Information

I10 Sch. 12 para. 72 partly in force; Sch. 12 para. 72 not in force at Royal Assent see s. 87; Sch. 12 para. 72(b) in force at 30.8.2005 by S.R. 2005/391, art. 2, Sch.

- 73 (1) Article 41 (breach of supervision requirements of juvenile justice centre order) is amended as follows.
- (2) In paragraph (2)—
- (a) for “in any of” substitute “ in either of”,
 - (b) for sub-paragraph (a) substitute—
 - “(a) it may impose on him a fine not exceeding £1,000;”;

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

and

- (c) for paragraphs (i) and (ii) of sub-paragraph (b) substitute—
- “(i) in a juvenile justice centre if he has not attained the age of 17 or falls within paragraph (2A); or
(ii) in a young offenders centre in any other case.”

(3) After that paragraph insert—

“(2A) The offender falls within this paragraph if he—

- (a) has attained the age of 17;
(b) has not attained the age of 18 and will not attain that age within the next 30 days; and
(c) has not had a custodial sentence (other than the juvenile justice centre order in question) imposed on him within the last two years, and the court, after considering a report made by a probation officer, considers that it is in his best interests to order him to be detained in a juvenile justice centre (and not in a young offenders centre).

(2B) Where the court imposes a fine on the offender under paragraph (2)(a)—

- (a) if he has not attained the age of 16, it shall order that the fine be paid by the parent or guardian of the child instead of by the child, unless it is satisfied that there is good reason for not so doing; and
(b) if he has attained that age but has not attained the age of 18, it may so order.

(2C) A fine ordered under paragraph (2B) to be paid by a parent or guardian may be recovered from him by distress, or he may be imprisoned in default of payment, in like manner as if the order had been made on the conviction of the parent or guardian of the offence for which the juvenile justice centre order was made.

(2D) A parent or guardian may appeal to a county court against an order under paragraph (2B).”

Commencement Information

III Sch. 12 para. 73 partly in force; Sch. 12 para. 73 not in force at Royal Assent see s. 87; Sch. 12 para. 73(2)(c)(3) in force and Sch. 12 para. 73(1) in force for certain purposes at 30.8.2005 by S.R. 2005/391, art. 2, Sch.

75 In Article 56(5)(a) (power to provide for functions of Juvenile Justice Board to include power to make schemes for children subject to attendance centre orders or juvenile justice centre orders), after “subject to” insert “ reparation orders, community responsibility orders, a youth conference plan, ”.

PROSPECTIVE

Northern Ireland Act 2000 (c. 1)

76 The Northern Ireland Act 2000 has effect subject to the following amendments.

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

PROSPECTIVE

77 In section 1(4) (effect on offices of suspension of devolved government), after “junior Minister,” insert “ as Attorney General for Northern Ireland ”.

PROSPECTIVE

78 In section 3 (restoration of devolved government), insert at the end—
“(8) If the period of appointment of the person who held office as Attorney General for Northern Ireland immediately before the date on which section 1 came into force has not expired, he resumes office on the effective date.”

PROSPECTIVE

79 In the Schedule (provisions applicable during suspension of devolved government), after paragraph 5 insert—
“5A If the office of Attorney General is vacant at the time when section 1 comes into force, or becomes vacant at any time while that section is in force, no steps are to be taken to fill the vacancy while that section is in force; but if a restoration order is subsequently made, the vacancy is to be filled in accordance with section 22 of the Justice (Northern Ireland) Act 2002.”

Terrorism Act 2000 (c. 11)

80 In paragraph 39(4)(b) and (6)(b) of Schedule 4 to the Terrorism Act 2000 (compensation where restraint order is discharged), for “member of the Office of the Director of Public Prosecutions for Northern Ireland” substitute “ member of staff of the Public Prosecution Service for Northern Ireland ”.

PROSPECTIVE

Regulatory Reform Act 2001 (c. 6)

81 F56

Textual Amendments

F56 Sch. 12 para. 81 repealed (8.1.2007) by Legislative and Regulatory Reform Act 2006 (c. 51), ss. 30, 33, Sch. (with s. 30(2)-(5))

Status: Point in time view as at 16/04/2007.

Changes to legislation: Justice (Northern Ireland) Act 2002 is up to date with all changes known to be in force on or before 26 June 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULE 13

Section 86

REPEALS AND REVOCATIONS

Commencement Information

I12 Sch. 13 partly in force; Sch. 13 not in force at Royal Assent, see s. 87; Sch. 13 in force for certain purposes at 15.10.2002 by S.R. 2002/319, art. 2, Sch.; Sch. 13 in force for certain further purposes at 1.10.2003 by S.R. 2003/416, art. 2; Sch. 13 in force for certain further purposes at 1.12.2003 by S.R. 2003/488, art. 2, Sch.; Sch. 13 in force for certain further purposes at 1.4.2005 by S.R. 2005/109, art. 2, Sch.; Sch. 13 in force for certain further purposes at 13.6.2005 and 15.6.2005 by S.R. 2005/281, arts. 2, 3. Schs. 1, 2; Sch. 13 in force for certain further purposes at 30.8.2005 by S.R. 2005/391, art. 2, Sch.; Sch. 13 in force for certain further purposes at 3.4.2006 by S.R. 2006/124, art. 2, Sch.; Sch. 13 in force for certain further purposes at 16.4.2007 by S.R. 2007/237, art. 2, Sch.

<i>Short title and chapter or title and number</i>	<i>Extent of repeal or revocation</i>
Promissory Oaths Act 1868 (c. 72)	Section 4. Section 6 . In the Schedule, in the Second Part, the entry relating to Ireland.
Criminal Justice Act (Northern Ireland) 1945 (c. 15 (N.I.))	Section 19.
Interpretation Act (Northern Ireland) 1954 (c. 33 (N.I.))	In section 42(4), in the definition of “committed for trial”, the words “, justice of the peace”.
Coroners Act (Northern Ireland) 1959 (c. 15 (N.I.))	Section 2(2).
County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))	Section 105(1), (1A) and (3). In section 107(7), the words “, except a resident magistrate,”. Section 136(a).
Magistrates’ Courts Act (Northern Ireland) 1964 (c. 21 (N.I.))	In section 1(3), in the definition of “resident magistrate”, the words “or a temporary resident magistrate appointed under any enactment repealed by this Act”. Section 7. Section 9(2). In section 10(1), the words “, or have previously been,”. Section 11. In section 12A(1), the words “other than a resident magistrate”.
Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.))	In section 2, in subsection (1), the words “Subject to subsections (4) and (4A),” and subsections (4) and (4A).
Law Commissions Act 1965 (c. 22)	Section 1(5).

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Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.))	Section 178(3). In Schedule 2, paragraphs 1, 2, 2A, 3(2), 6 and 8(a).
Grand Jury (Abolition) Act (Northern Ireland) 1969 (c. 15 (N.I.))	In section 2(2), paragraph (f) and the word “or” before it and the words “or paragraph (f)”.
Prosecution of Offences (Northern Ireland) Order 1972 (S.I. 1972/538 (N.I. 1))	The whole Order.
Northern Ireland Constitution Act 1973 (c. 36)	Section 10(1). Section 34.
Northern Ireland (Modification of Enactments -No. 1) Order 1973 (S.I. 1973/2163)	In Schedule 2, the entry for the Lands Tribunal and Compensation Act (Northern Ireland) 1964. In Schedule 5, paragraph 50(a).
Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Part 1 of Schedule 1, the words “the Summary Jurisdiction and Criminal Justice Act (Northern Ireland) 1935 or”.
Energy Act 1976 (c. 76)	In Schedule 2, in paragraph 6(4), the words following paragraph (b).
Internationally Protected Persons Act 1978 (c. 17)	In section 2(1), the words following paragraph (b).
Judicature (Northern Ireland) Act 1978 (c. 23)	In section 2(1), the words “who shall be president thereof”. In section 3(1), the words “who shall be president thereof”. In section 4(1), the words “who shall be president thereof”. Section 13. In section 51(5), the words “or a justice of the peace” and the words “or justices”. In section 51A(6), the words “or (f)”. Section 71(1), (2) and (4). Section 75(3). Section 99(1). f57 In Schedule 2, the entry relating to the Lord Chief Justice’s Office. In Schedule 3, the entries relating to the Principal Secretary to the Lord Chief Justice and the Legal Secretary to the Lord Chief Justice and column 2 of the other entries. In Schedule 5, the entries relating to sections 2(1), 2(2) and 3, 2(3) and 6(2) of the Coroners Act (Northern Ireland) 1959, section 105 of the County Courts Act (Northern Ireland) 1959 and sections 7 and 11 of the Magistrates’ Courts Act (Northern Ireland) 1964, in the entry relating

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	to section 10(1) of that Act, the words “for the word “Governor” wherever it occurs substitute the words “Lord Chancellor” and” and the entries relating to section 2 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964, section 21(2) of the Treatment of Offenders Act (Northern Ireland) 1968, section 178 of, and paragraphs 1(1) and 3(2) and paragraphs 1(2), (3) and (4), 2(2) and 6 of Schedule 2 to, the Children and Young Persons Act (Northern Ireland) 1968 and the Prosecution of Offences (Northern Ireland) Order 1972.
Suppression of Terrorism Act 1978 (c. 26)	In section 4(4), the words following paragraph (b).
Interpretation Act 1978 (c. 30)	In Schedule 1, in the definition of “committed for trial”, in paragraph (b), the words “, justice of the peace”.
Rehabilitation of Offenders (Northern Ireland) Order 1978 (S. I. 1978/1908 (N.I. 27))	Article 6(6)(c).
County Courts (Northern Ireland) Order 1980 (S.I. 1980/397 (N.I. 3))	F58 . . .
Criminal Justice (Northern Ireland) Order 1980 (S.I. 1980/704 (N.I. 6))	In Part 2 of Schedule 1, paragraphs 65 to 68.
Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8))	In Article 4(2), the word “or” following subparagraph (a). Article 10(6). In Article 34, the words “within the meaning of the Criminal Justice (Children) (Northern Ireland) Order 1998”. In Part 1 of Schedule 1, paragraph 5.
Magistrates’ Courts (Northern Ireland) Order 1981 (S.I. 1981/1675 (N.I. 26))	In Article 2(3), in the definition of “resident magistrate”, the words “or a temporary resident magistrate appointed under any enactment repealed by that Act of 1964”. In Article 18, paragraph (3) and, in paragraph (4)(a), the words “or other justice of the peace” and the words “or, as the case may be, paragraph (3),”. In Article 34, in paragraphs (3) and (4), the words “or other justice of the peace” and, in paragraph (5), the words “or justice of the peace”. Article 44(5). Article 90(4). In Article 152, the words “or other justice of the peace having jurisdiction in the same

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	petty sessions district as the court which made the original order”.
	In Article 158A(3), the words “or another justice of the peace (as the case may be)”.
	^{F58}
	In Schedule 1, in paragraph 4, the words “and section 6(2A)” and Part 2.
Civil Aviation Act 1982 (c. 16)	In section 92, in subsection (2), the words following paragraph (b) and subsection (6).
Administration of Justice Act 1982 (c. 53)	Section 72(2). In Schedule 8, paragraph 2.
Probation Board (Northern Ireland) Order 1982 (S.I. 1982/713 (N.I. 10))	Article 14. In Article 15(1), sub-paragraph (b) and the word “and” before it.
Criminal Justice Act 1987 (c. 38)	In Schedule 1, paragraph 5(2). In Schedule 2, paragraph 6.
Courts and Legal Services Act 1990 (c. 41)	Section 109(4).
Food Safety (Northern Ireland) Order 1991 (S.I. 1991/762 (N.I. 7))	In Article 8(5), paragraph (b) and the word “and” before it.
Criminal Justice (Northern Ireland) Order 1991 (S.I. 1991/1711 (N.I. 16))	Article 7(3).
Social Security Administration (Northern Ireland) Act 1992 (c. 8)	In Schedule 2, paragraph 1(4).
Radioactive Substances Act 1993 (c. 12)	Section 38(3).
Criminal Procedure and Investigations Act 1996 (c. 25)	In section 1 (as it applies to Northern Ireland), in subsection (2)(e), the words “or (f)”.
	In section 39 (as it applies to Northern Ireland), in subsection (2)(a), the words “or (f)”.
	In Schedule 3 (as it applies to Northern Ireland), in paragraph 8(1)(b), the words “or (f)”.
Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1))	Article 22(4)(a).
Juries (Northern Ireland) Order 1996 (S.I. 1996/1141 (N.I. 6))	In Schedule 2, the entry relating to members of juvenile court panels.
Police (Northern Ireland) Act 1998 (c. 32)	In section 58, in subsection (3), the words “under the Prosecution of Offences (Northern Ireland) Order 1972” and subsection (4).
Northern Ireland Act 1998 (c. 47)	In section 7(1), the word “and” after paragraph (b). In Schedule 2, in paragraph 11, the words “lay magistrates, justices of the peace, members of juvenile court panels,”.

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	In Schedule 10, in paragraph 6, the words “or, where such notice is given to the First Minister and the deputy First Minister, those Ministers acting jointly”, in paragraph 12, in sub-paragraph (1), the words “or defended” and, in sub-paragraph (2), the words “or the First Minister and the deputy First Minister acting jointly”, in paragraph 14, the words “or, where such notice is given to the First Minister and the deputy First Minister, those Ministers acting jointly”, in paragraph 22, in sub-paragraph (1), the words “or defended” and, in sub-paragraph (2), the words “or the First Minister and the deputy First Minister acting jointly”, in paragraph 24, the words “or, where such intimation is given to the First Minister and the deputy First Minister, those Ministers acting jointly” and paragraph 36.
Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9))	Article 4. Article 54(3)(b). Article 55. In Schedule 5, paragraphs 14, 25, 26(b), 27, 28(a)(i) and (b) and 46(a).
Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10))	Article 7(5). In Schedule 1, paragraph 1(3).
Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 21))	Article 82(4).
Access to Justice Act 1999 (c. 22)	In section 98(3), paragraph (b) and the word “and” before it.
Criminal Evidence (Northern Ireland) Order 1999 (S.I. 1999/2789 (N.I. 8))	In Article 2(2), in the definition of “judge”, the words “or justice of the peace”.
Welfare Reform and Pensions Order 1999 (S.I. 1999/3147 (N.I. 11))	In Article 40(2), the word “or” at the end of sub-paragraph (f).
Freedom of Information Act 2000 (c. 36)	In Schedule 1, in Part 7, the entries relating to the Advisory Committee on Juvenile Court Lay Panel (Northern Ireland) and the Law Reform Advisory Committee for Northern Ireland.
Justice (Northern Ireland) Act 2002 (c. 26)	Section 9(10) and (13). In section 90(4), the words “9(4),”. In Schedule 6, the entries relating to justices of the peace and members of panels formed under Schedule 2 to the Children and Young Persons Act (Northern Ireland) 1968 (c. 34 (N.I.)).

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Textual Amendments

- F57** Sch. 13: entry repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 146, 148, **Sch. 18 Pt. 3**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 30
- F58** Sch. 13: entries repealed (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 146, 148, Sch. 5 para. 128(2), **Sch. 18 Pt. 3**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 paras. 12, 30

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