



Identity and Language (Northern Ireland) Act 2022

2022 CHAPTER 45

PART 1 **N.I.**

NATIONAL AND CULTURAL IDENTITY AND LANGUAGE

3 The Ulster Scots and the Ulster British tradition **N.I.**

(1) In the Northern Ireland Act 1998 after Part 7B (inserted by [section 2\(1\)](#)) insert—

“PART 7C **N.I.**

THE ULSTER SCOTS AND THE ULSTER BRITISH TRADITION

78R The Commissioner

- (1) The First Minister and deputy First Minister acting jointly must appoint a Commissioner for the Ulster Scots and the Ulster British tradition.
- (2) The person for the time being holding office as the Commissioner for the Ulster Scots and the Ulster British tradition is by that name a corporation sole.
- (3) In this Part, “the Commissioner” means the Commissioner for the Ulster Scots and the Ulster British tradition.
- (4) [Schedule 9C](#) contains provision about the Commissioner.

78S Functions of the Commissioner

- (1) The principal aim of the Commissioner in exercising functions under this Part is to enhance and develop the language, arts and literature associated with the

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Ulster Scots and the Ulster British tradition in Northern Ireland (in this Part referred to as “the relevant language, arts and literature”).

- (2) The Commissioner must—
- (a) promote awareness of Ulster Scots services provided by public authorities to the public or a section of the public in Northern Ireland;
 - (b) provide or publish such advice, support and guidance as the Commissioner considers appropriate to public authorities in relation to—
 - (i) developing and encouraging the relevant language, arts and literature (including in relation to facilitating the use of Ulster Scots in the provision of services to the public or a section of the public in Northern Ireland);
 - (ii) the effect and implementation of the international instruments specified in subsection (3) in relation to the relevant language, arts and literature;
 - (c) investigate complaints in accordance with [section 78T](#).
- (3) The specified international instruments are—
- (a) the Council of Europe’s Charter for Regional or Minority Languages opened for signature on 5 November 1992,
 - (b) the Council of Europe’s Framework Convention for the Protection of National Minorities opened for signature on 1 February 1995, and
 - (c) the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989,
- including any protocols which are in force in relation to the United Kingdom, but subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.
- (4) In preparing guidance for publication, the Commissioner must consult with such public authorities and other persons as the Commissioner considers appropriate.
- (5) The First Minister and deputy First Minister acting jointly may direct the Commissioner in relation to the exercise of the Commissioner’s functions.
- (6) In [subsection \(2\)\(a\)](#), “Ulster Scots services” means services provided in Ulster Scots or likely to be of particular interest to those with an interest in the relevant language, arts and literature.
- (7) In this Part, a reference to services is a reference to services whether provided for payment or not.
- (8) Nothing in this Part affects the status of the English language.

78T Complaints

- (1) [Subsection \(2\)](#) applies in relation to a complaint to the effect that a public authority did not have due regard to published facilitation guidance if—
- (a) the complaint is made by a person claiming to have been directly affected by the failure,

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- (b) the complaint is made in writing to the Commissioner within the period of three months beginning with the day on which the complainant first knew of the matters raised in the complaint, and
 - (c) the Commissioner is satisfied that the complainant has notified the public authority of the matters raised in the complaint and the authority has had reasonable opportunity to consider and respond.
- (2) The Commissioner must—
- (a) investigate the complaint, or
 - (b) provide the complainant with a written statement of the Commissioner’s reasons for not investigating the complaint.
- (3) If investigating the complaint, the Commissioner must—
- (a) notify the complainant and public authority in writing of that fact,
 - (b) afford the public authority reasonable opportunity to comment on matters raised in the complaint, and
 - (c) give the complainant and public authority a report setting out the Commissioner’s findings.
- (4) If the Commissioner finds that the public authority did not have due regard to published facilitation guidance, the Commissioner—
- (a) may include in the report under [subsection \(3\)](#) recommendations as to how the public authority might have better regard to published facilitation guidance, and
 - (b) may lay the report before the Assembly.
- (5) An investigation under this section may be carried out in private if the Commissioner considers it appropriate.
- (6) In this section “published facilitation guidance” means guidance published under [section 78S\(2\)\(b\)\(i\)](#) in relation to facilitating the use of Ulster Scots in the provision of services to the public or a section of the public in Northern Ireland.

78U Meaning of “public authority”

- (1) In this Part “public authority” means an authority listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) [2016 \(c. 4 \(N.I.\)\)](#) but does not include—
- (a) the Commissioner;
 - (b) the Office of Identity and Cultural Expression;
 - (c) the Irish Language Commissioner;
 - (d) the implementation body to which Part 6 of the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 ([S.I. 1999/859](#)) (language) applies;
 - (e) a body referred to in note 2 to Schedule 3 but not listed in that Schedule.
- (2) The First Minister and deputy First Minister acting jointly may by regulations modify [this section](#) for the purpose of adding authorities to or removing authorities from the definition of “public authority”.
- (3) Regulations under [subsection \(2\)](#) may—

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- (a) add an authority only if the provision adding the authority—
 - (i) would be within the legislative competence of the Assembly if it were contained in an Act of the Assembly, and
 - (ii) would not, if it were contained in a Bill of the Assembly, result in that Bill requiring the consent of the Secretary of State;
 - (b) add or remove an authority for a particular purpose, or in relation to specified functions;
 - (c) include transitional or supplementary provision.”
- (2) [Schedule 3](#) contains provision about the Commissioner for the Ulster Scots and the Ulster British tradition.

Commencement Information

- I1** S. 3 not in force at Royal Assent, see [s. 10\(2\)](#)
- I2** [S. 3\(1\)](#) in force at 22.5.2023 for specified purposes by [S.I. 2023/566](#), [reg. 2\(e\)](#)
- I3** [S. 3\(2\)](#) in force at 22.5.2023 by [S.I. 2023/566](#), [reg. 2\(f\)](#)

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