



Justice (Northern Ireland) Act 2004

2004 CHAPTER 4

The judiciary

1 Transfer to Lord Chancellor of functions relating to Judicial Appointments Commission

The Justice (Northern Ireland) Act 2002 (c. 26) (“the 2002 Act”) is amended as set out in Schedule 1 for the purpose of transferring to the Lord Chancellor functions exercisable by the First Minister and deputy First Minister, acting jointly, in relation to the Northern Ireland Judicial Appointments Commission.

2 Membership of the Commission

- (1) In section 3 of the 2002 Act for subsection (8) (lay members of the Commission to be representative of the community in Northern Ireland) substitute—

“(8) It is the duty of—

- (a) the Lord Chancellor, and
- (b) those responsible for making nominations under subsection (5)(a) and (b),

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

- (2) In Schedule 2 to the 2002 Act in paragraph 1 (tenure of judicial members) for sub-paragraph (1) substitute—

“(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.”

3 Duty of Commission to secure judiciary reflective of the community

In section 5 of the 2002 Act for subsections (8) and (9) (duty of Commission to secure range of persons reflective of community in Northern Ireland is available for consideration by the Commission, but appointment to be on basis of merit) substitute—

- “(8) The selection of a person to be appointed, or recommended for appointment, to a listed judicial office (whether initially or after reconsideration) must be made solely on the basis of merit.
- (9) Subject to that, the Commission must at all times engage in a programme of action which complies with subsection (10).
- (10) A programme of action complies with this subsection if—
- (a) it is designed to secure, so far as it is reasonably practicable to do so, that appointments to listed judicial offices are such that those holding such offices are reflective of the community in Northern Ireland;
 - (b) it requires the Commission, so far as it is reasonably practicable to do so, to secure that a range of persons reflective of the community in Northern Ireland is available for consideration by the Commission whenever it is required to select a person to be appointed, or recommended for appointment, to a listed judicial office; and
 - (c) it is for the time being approved by the Commission for the purposes of this section.”

4 Appointment of Lord Chief Justice and Lords Justices of Appeal

In section 12 of the Judicature (Northern Ireland) Act 1978 (c. 23) (as substituted by section 4 of the 2002 Act) for subsections (3) to (5) (consultations by Prime Minister before making recommendations to Her Majesty as to appointment of Lord Chief Justice or Lord Justice of Appeal) substitute—

- “(3) Before making any recommendation to Her Majesty concerning an appointment under subsection (1) or (2) the Prime Minister shall—
- (a) require the First Minister and deputy First Minister, acting jointly, to make a recommendation to him concerning the appointment in such form as the Prime Minister may specify, and
 - (b) consider any recommendation so made.
- (4) Before making any recommendation under subsection (3)(a) the First Minister and deputy First Minister shall consult the Lord Chief Justice or, if the office of Lord Chief Justice is vacant or he is not available, the most senior Lord Justice of Appeal who is available.
- (5) The Northern Ireland Judicial Appointments Commission shall give to the First Minister and deputy First Minister advice as to the procedure which, whenever they are required by the Prime Minister to make any recommendation under subsection (3)(a), they should adopt for formulating that recommendation.
- (6) After considering that advice, the First Minister and deputy First Minister acting jointly shall, with the approval of the Prime Minister, determine the procedure which, whenever they are required by the Prime Minister to make any recommendation under subsection (3)(a), they are to adopt for formulating

that recommendation and on each occasion on which they are so required, they shall adopt that procedure.”

5 Removal or suspension from listed judicial offices

In section 7 of the 2002 Act in subsection (5) (agreement of the Lord Chief Justice required to the removal or suspension of a person from a listed judicial office) for “without the agreement of” substitute “except after consultation with”.