



Justice (Northern Ireland) Act 2002

2002 CHAPTER 26

PART 1

THE JUDICIARY

[^{F1}The Ombudsman

Textual Amendments

- F1** S. 9A and preceding cross-heading inserted (25.9.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 124\(2\)](#), [148](#); [S.I. 2006/1537](#), [art. 3\(a\)](#)

9A Judicial Appointments Ombudsman

- (1) There is to be a Northern Ireland Judicial Appointments Ombudsman.
- [^{F2}(2) The Northern Ireland Public Services Ombudsman is, by virtue of holding that office, the Northern Ireland Judicial Appointments Ombudsman.]*
- (3) Schedule 3A makes further provision about the Ombudsman.

Textual Amendments

- F2** S. 9A(2) substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), [ss. 58\(1\)](#), [64](#)

Modifications etc. (not altering text)

- C1** S. 9A(2): transfer of functions (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), [art. 1\(2\)](#), [Sch. 17 para. 17](#) (with arts. 28-31)
- C2** S. 9A(2) extended (20.2.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), [s. 64](#), [Sch. 1 para. 12\(8\)](#)

Changes to legislation: Justice (Northern Ireland) Act 2002, Cross Heading: The Ombudsman is up to date with all changes known to be in force on or before 20 April 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) View outstanding changes

I_{F3}9B Complaints: interpretation

- (1) This section applies for the purposes of this Part.
- (2) A Commission complaint is a complaint by a qualifying complainant of maladministration by the Commission or a committee of the Commission.
- (3) A departmental complaint is a complaint by a qualifying complainant of maladministration by the Lord Chancellor ^{F4}... in connection with any of the following—
 - (a) recommendation for or appointment to a listed judicial office;
 - (b) ^{F5}
- (4) A qualifying complainant is a complainant who claims to have been adversely affected, as an applicant for selection or as a person selected under this Part [^{F6}or paragraph 2A of Schedule 11 to the Northern Ireland Act 1998], by the maladministration complained of.]

Textual Amendments

- F3** S. 9B inserted (25.9.2006 for certain purposes and otherwise prosp.) by [Constitutional Reform Act 2005 \(c. 4\), ss. 125, 148; S.I. 2006/1537, art. 3\(b\)](#)
- F4** Words in s. 9B(3) omitted (12.4.2010) by virtue of [Northern Ireland Act 2009 \(c. 3\), s. 5\(7\), Sch. 3 para. 8\(2\)](#) (with [Sch. 5 para. 13](#)); [S.I. 2010/812, art. 2](#)
- F5** S. 9B(3)(b) omitted (1.4.2009) by virtue of [The Transfer of Tribunal Functions and Revenue and Customs Appeals Order 2009 \(S.I. 2009/56\), art. 3, Sch. 1 para. 330](#)
- F6** Words in s. 9B(4) inserted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\), s. 5\(7\), Sch. 3 para. 8\(3\); S.I. 2010/812, art. 2](#)

I_{F7}9C Complaints to the Commission or the Lord Chancellor

- (1) The Commission must make arrangements for investigating any Commission complaint made to it.
- (2) The Lord Chancellor must make arrangements for investigating any departmental complaint made to him.
- (3) Arrangements under this section need not apply to a complaint made more than 28 days after the matter complained of.]

Textual Amendments

- F7** S. 9C inserted (25.9.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 126, 148; S.I. 2006/1537, art. 3\(c\)](#)

I_{F8}9D Complaints to the Ombudsman

- (1) Subsections (2) and (3) apply to a complaint which the complainant—
 - (a) has made to the Commission or Lord Chancellor in accordance with arrangements under section 9C, and
 - (b) makes to the Ombudsman not more than 28 days after being notified of the Commission's or Lord Chancellor's decision on the complaint.

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- (2) If the Ombudsman considers that investigation of the complaint is not necessary, he must inform the complainant.
- (3) Otherwise he must investigate the complaint.
- (4) The Ombudsman may investigate a complaint which the complainant—
 - (a) has made to the Commission or the Lord Chancellor in accordance with arrangements under section 9C, and
 - (b) makes to the Ombudsman at any time.
- (5) The Ombudsman may investigate a transferred complaint made to him, and no such complaint may be made under the Judicial Appointments Order after the commencement of this section.
- (6) The Judicial Appointments Order is the Judicial Appointments Order in Council 2001, which sets out the functions of Her Majesty's Commissioners for Judicial Appointments.
- (7) A transferred complaint is a complaint that lay to those Commissioners (whether or not it was made to them) in respect of the application of procedures for appointment to listed judicial offices before the commencement of this section, but not a complaint that those Commissioners had declined to investigate or on which they had concluded their investigation.
- (8) Any complaint to the Ombudsman under this section must be in a form approved by him.]

Textual Amendments

F8 S. 9D inserted (25.9.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 127, 148; S.I. 2006/1537, art. 3(c)

[
F9]9E

Report and recommendations

- (1) The Ombudsman must prepare a report on any complaint he has investigated under section 9D.
- (2) The report must state—
 - (a) what findings the Ombudsman has made;
 - (b) whether he considers the complaint should be upheld in whole or part;
 - (c) if he does, what if any action he recommends should be taken by the Commission or the Lord Chancellor as a result of the complaint.
- (3) The recommendations that may be made under subsection (2)(c) include recommendations for the payment of compensation.
- (4) Such a recommendation must relate to loss which appears to the Ombudsman to have been suffered by the complainant as a result of maladministration and not as a result of any failure to be appointed to an office to which the complaint related.]

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Textual Amendments

F9 S. 9E inserted (25.9.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 128**, 148; S.I. 2006/1537, **art. 3(c)**

^{F10}9F Report procedure

- (1) This section applies to a report under section 9E.
- (2) The Ombudsman must submit a draft of the report—
 - ^{F11}(a) if the complaint was a Commission complaint, to the First Minister and deputy First Minister and to the Commission;
 - (b) otherwise, to the Lord Chancellor.]
- (3) In finalising the report the Ombudsman—
 - (a) must have regard to any proposal ^{F12}for changes in the draft report which is made—
 - (i) if the complaint was a Commission complaint, by the First Minister and deputy First Minister acting jointly or by the Commission;
 - (ii) otherwise, by the Lord Chancellor;]
 - (b) must include in the report a statement of any such proposal not given effect to.
- (4) The report must be signed by the Ombudsman.
- (5) If the complaint was a Commission complaint the Ombudsman must send the report in duplicate to the ^{F13}First Minister and deputy First Minister and to] the Commission.
- (6) Otherwise the Ombudsman must send the report to the Lord Chancellor.
- (7) The Ombudsman must send a copy of the report to the complainant, but that copy must not include information—
 - (a) which relates to an identified or identifiable individual other than the complainant, and
 - (b) whose disclosure by the Ombudsman to the complainant would (apart from this subsection) be contrary to section 9I.]

Textual Amendments

F10 S. 9F inserted (25.9.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), **ss. 129**, 148; S.I. 2006/1537, **art. 3(c)**

F11 S. 9F(2)(a)(b) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 62(a)** (with arts. 28-31)

F12 Words in s. 9F(3)(a) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 62(b)** (with arts. 28-31)

F13 Words in s. 9F(5) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 62(c)** (with arts. 28-31)

^{F14}9G References by the Lord Chancellor

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Textual Amendments

- F14** S. 9G omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 9** (with **Sch. 5 para. 14**); S.I. 2010/812, art. 2

F15 **9H**

Information

The Commission and the Lord Chancellor must provide the Ombudsman with such information as he may reasonably require relating to the subject matter of an investigation under section 9D ^{F16}....]

Textual Amendments

- F15** S. 9H inserted (25.9.2006) by Constitutional Reform Act 2005 (c. 4), **ss. 131**, 148; S.I. 2006/1537, **art. 3(c)**
- F16** Words in s. 9H omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 3 para. 10** (with **Sch. 5 para. 14**); S.I. 2010/812, art. 2

X1 **F17** **9I**

Confidentiality in relation to judicial appointments and discipline

- (1) A person who obtains confidential information, or to whom confidential information is provided, under or for the purposes of a relevant provision must not disclose it except with lawful authority.
- (2) These are the relevant provisions—
 - (a) [^{F18}sections 12 to 12C] of the Judicature (Northern Ireland) Act 1978 (appointment and removal of Lord Chief Justice, Lords Justices of Appeal and judges of High Court);
 - (b) sections 3, ^{F19}... 7 and 9 to 9H of this Act (appointment and removal of judicial officers, and appointment and removal of lay magistrates);
 - ^{F20}(ba) [Schedule 3 to this Act and paragraph 2A of Schedule 11 to the Northern Ireland Act 1998;]
 - (c) sections 134 and 135 of the Constitutional Reform Act 2005 (removal from judicial offices);
 - (d) section 16 of this Act (complaints about judicial officers);
- (3) Information is confidential if it relates to an identified or identifiable individual (a “subject”).
- (4) Confidential information is disclosed with lawful authority only if and to the extent that any of the following applies—
 - (a) the disclosure is with the consent of each person who is a subject of the information (but this is subject to subsection (5));
 - (b) the disclosure is for (and is necessary for) the exercise by any person of functions under a relevant provision or a decision whether to exercise them;
 - (c) the disclosure is required, under rules of court or a court order, for the purposes of legal proceedings of any description.
- (5) An opinion or other information given by one identified or identifiable individual (A) about another (B)—

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- (a) is information that relates to both;
 - (b) must not be disclosed to B without A's consent.
- (6) This section does not prevent the disclosure with the agreement of the Lord Chancellor and the Lord Chief Justice of information as to disciplinary action taken in accordance with a relevant provision.
- (7) This section does not prevent the disclosure of information which is already, or has previously been, available to the public from other sources.
- (8) A contravention of this section in respect of any information is actionable, subject to the defences and other incidents applying to actions for breach of statutory duty.
- (9) But it is actionable only at the suit of a person who is a subject of the information.]]

Editorial Information

- X1** The insertion of the new heading "The Ombudsman" on 25.9.2006 gives rise to a change in the structure of this legislation on legislation.gov.uk which breaks the continuity of historical versions of the existing provisions which are now brought under that new heading.

Textual Amendments

- F17** By [Constitutional Reform Act 2005 \(c. 4\)](#), [ss. 132](#), 148; S.I. 2005/1431, [art. 2\(b\)](#) it is provided (15.6.2005) that s. 9I and the cross-heading following that provision is inserted after s. 9H
- F18** Words in s. 9I(2)(a) substituted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), [Sch. 3 para. 11\(2\)](#); S.I. 2010/812, [art. 2](#)
- F19** Word in s. 9I(2)(b) omitted (12.4.2010) by virtue of [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), [Sch. 3 para. 11\(3\)](#) (with [Sch. 5 para. 15](#)); S.I. 2010/812, [art. 2](#)
- F20** S. 9I(2)(ba) inserted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), [Sch. 3 para. 11\(4\)](#) (with [Sch. 5 para. 15](#)); S.I. 2010/812, [art. 2](#)

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31(1A) inserted by [2023 c. 41 Sch. 13 para. 5\(2\)](#)
- s. 31(7) inserted by [2023 c. 41 Sch. 13 para. 5\(4\)](#)