

JUSTICE (NORTHERN IRELAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY

Section 6: Duty of Director of Public Prosecutions to refer certain matters to Police Ombudsman

15. Section 34 of the 2002 Act amends section 55 of the [Police \(Northern Ireland\) Act 1998 \(c. 32\)](#) to place the Director of Public Prosecutions for Northern Ireland (“the Director”) under a duty to refer matters to the Police Ombudsman for Northern Ireland (“the Ombudsman”). Recommendation 21 of the Criminal Justice Review stated that there should be a duty on the Director to refer matters to the Ombudsman and section 6 makes the necessary amendments to ensure that the recommendation is fully implemented in line with the undertaking of the Government in the Joint Declaration published in May 2003 and referred to at page 33 of the Updated Implementation Plan.
16. [Section 6](#) amends section 55 as follows. Firstly, it removes the references to the Director in those sections which deal with the discretion (*subsection (2)*). Secondly, it inserts a new subsection into section 55 which places a duty on the Director to refer any matter to the Ombudsman in which it appears to the Director that a police officer may have committed a criminal offence or, in the course of a criminal investigation, have behaved in a manner which would justify disciplinary proceedings (*subsection (3)*).
17. Under the new subsection it is made clear that the new duty does not apply if the Director knows that the Ombudsman is already aware of a matter - this is to ensure that matters are not repeatedly referred to the Ombudsman and to avoid overlap with matters that have already been referred. *Subsection (4)* amends section 55(5) to ensure that the Ombudsman has the power to investigate any matter referred under new subsection (4A). *Subsection (5)* amends subsection 55(7) so that the Ombudsman is no longer obliged to inform the Director of the outcome of criminal or disciplinary proceedings. Informing the Director is unnecessary because he made the referral to the Ombudsman in the first place. Finally *subsection (6)* ensures that referrals under this section are treated consistently with any referrals under section 55 to which the [RUC \(Complaints etc.\) Regulations 2001 \(S.R. 2001/184\)](#) currently apply. Subject to certain exceptions, Regulations 7 to 9 of these Regulations limit the Ombudsman to investigating complaints about matters that are no more than 12 months old.