

## SCHEDULES

### SCHEDULE 3

Section 2

#### AMENDMENTS TO THE JUSTICE (NORTHERN IRELAND) ACT 2002

- 1 (1) Amend section 2 as follows.
  - (2) Omit subsection (1)(a).
  - (3) In subsection (5) before the definition of “listed judicial office” insert—

““the justice department” means the Northern Ireland department which for the time being meets the following conditions—

    - (a) it is established by an Act of the Northern Ireland Assembly, and
    - (b) its purpose is to exercise functions consisting wholly or mainly of devolved policing and justice functions (as defined in section 21A(8) of the Northern Ireland Act 1998),”.
- 2 Omit section 4.
- 3 For section 5 substitute—

**“5 Appointment to listed judicial offices**

Schedule 3 (which is about the making of appointments to listed judicial offices) has effect.”
- 4 In section 5A(1) for “section 5” substitute “Schedule 3”.
- 5 Omit section 6.
- 6 (1) Amend section 7 as follows.
  - (2) In subsection (2) for “First Minister and deputy First Minister, acting jointly” substitute “Lord Chief Justice”.
  - (3) In subsection (3) for “First Minister and deputy First Minister” substitute “Lord Chief Justice”.
  - (4) In subsection (4) for “them” substitute “the Lord Chief Justice”.
  - (5) Omit subsection (5).
  - (6) After subsection (6) insert—

“(6A) If the Lord Chief Justice does not remove or suspend a person (“P”) in accordance with a recommendation as mentioned in subsection (3) or (4), the Lord Chief Justice must notify the following of the Lord Chief Justice’s reasons for not removing or suspending P—

    - (a) P;
    - (b) the tribunal;

---

*Status: This is the original version (as it was originally enacted).*

---

- (c) if the tribunal was convened by the Northern Ireland Judicial Appointments Ombudsman, the Ombudsman.”

(7) In subsection (7)—

- (a) for “(6)” substitute “(6A)”;
- (b) for “section 12B” substitute “section 12C”;
- (c) omit “(inserted by section 6 of this Act)”.

7 For section 8 substitute—

**“8 Tribunals for considering removal**

- (1) A tribunal to consider the removal of the holder of a listed judicial office may be convened—
- (a) by the Lord Chief Justice after consulting the Northern Ireland Judicial Appointments Ombudsman, or
- (b) by the Ombudsman after consulting the Lord Chief Justice.
- (2) A tribunal is to consist of—
- (a) a Lord Justice of Appeal or a judge of the High Court,
- (b) a person who holds an office within section 3(6)(a) to (e), and
- (c) a lay member of the Commission (see section 3(5)(c)).
- (3) The persons within subsection (2)(a) and (b) are to be selected by the Lord Chief Justice and the person within subsection (2)(c) is to be selected by the Ombudsman.
- (4) Unless the Commission otherwise agrees, the persons within subsection (2)
- (a) and (b) must be judicial members of the Commission (see section 3(5)(a)).
- (5) The person within subsection (2)(a) is to be the chair of the tribunal.
- (6) The tribunal’s procedure is to be determined by the Lord Chief Justice.
- (7) The justice department may pay a member of a tribunal any such allowances or fees as it may determine.”

8 (1) Amend section 9B as follows.

(2) In subsection (3) omit “or the Northern Ireland Court Service”.

(3) In subsection (4) after “Part” insert “or paragraph 2A of Schedule 11 to the Northern Ireland Act 1998”.

9 Omit section 9G.

10 In section 9H omit “or 9G”.

11 (1) Amend section 9I(2) as follows.

(2) In paragraph (a) for “section 12, 12A and 12B” substitute “sections 12 to 12C”.

(3) In paragraph (b) omit “5”.

(4) After paragraph (b) insert—

“(ba) Schedule 3 to this Act and paragraph 2A of Schedule 11 to the Northern Ireland Act 1998;”.

- 12 In section 88 before ““listed judicial office”” insert ““the justice department”,”.
- 13 For Schedule 3 substitute—

## “SCHEDULE 3

### APPOINTMENT TO LISTED JUDICIAL OFFICES

#### PART 1

##### APPOINTMENTS BY HER MAJESTY

###### Application

- 1 This Part of this Schedule applies to a listed judicial office to which persons are appointed by Her Majesty; and “listed judicial office” is to be read accordingly.

###### Process

- 2 (1) Her Majesty’s power to appoint a person to a listed judicial office is exercisable on the Lord Chancellor’s recommendation.
- (2) The Lord Chancellor’s power to recommend a person for appointment to a listed judicial office is exercisable only (and must be exercised) as follows.
- (3) The Commission is responsible for the selection of persons for recommendation for appointment to listed judicial offices (including, for deciding the timing of any selection or selection process).
- (4) When the Commission selects a person under sub-paragraph (3) it must notify the Lord Chancellor.
- (5) The Lord Chancellor must, as soon as reasonably practicable, recommend the selected person for appointment to the office in question.
- (6) The Commission must (in particular) exercise its power under sub-paragraph (3) to ensure that any vacancy in a listed judicial office is filled.
- (7) Sub-paragraph (6) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.

#### PART 2

##### APPOINTMENTS BY THE COMMISSION

###### Application

- 3 This Part of this Schedule applies to a listed judicial office to which persons are appointed by the Commission; and “listed judicial office” is to be read accordingly.

---

*Status: This is the original version (as it was originally enacted).*

---

### Process

- 4 (1) The Commission is responsible for the selection of persons for appointment to listed judicial offices (including, for deciding the timing of any selection or selection process).
- (2) When the Commission selects a person under sub-paragraph (1) it must appoint the person to the office in question.
- (3) The Commission must (in particular) exercise its power under sub-paragraph (1) to ensure that any vacancy in a listed judicial office is filled.
- (4) Sub-paragraph (3) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.

### PART 3

#### MAXIMUM NUMBERS

- 5 (1) This Part of this Schedule applies to a listed judicial office—
  - (a) to which Part 1 or 2 of this Schedule applies, and
  - (b) which (apart from this Part of this Schedule) may be held by more than one person at any time.
- (2) The Commission must, with the agreement of the justice department, determine the maximum number of persons who may hold the office at any time.
- (3) The Commission may from time to time, with the agreement of the justice department, revise the determination.
- (4) A determination (or any revision) does not affect any appointments that have already been made.

### PART 4

#### GENERAL PROVISION ABOUT SELECTIONS

- 6 (1) The selection under this Schedule of a person to be appointed, or recommended for appointment, to a listed judicial office must be made solely on the basis of merit.
- (2) Subject to that, the Commission must at all times engage in a programme of action which complies with sub-paragraph (3).
- (3) A programme of action complies with this sub-paragraph 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

---

**Status:** This is the original version (as it was originally enacted).

---

community in Northern Ireland is available for consideration by the Commission whenever it is selecting 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 Schedule.”

14 After paragraph 12(2) of Schedule 3A insert—

“(3) Sub-paragraph (1) does not apply to the Ombudsman’s functions under section 7 or 8 of this Act or section 12B or 12C of the Judicature (Northern Ireland) Act 1978.”