

## SCHEDULES

### SCHEDULE 5

Section 2

#### CONSEQUENTIAL AMENDMENTS AND TRANSITIONAL PROVISION

#### PART 1

#### CONSEQUENTIAL AMENDMENTS

##### *County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.))*

1 For section 102(1) substitute—

“(1) Her Majesty may appoint a qualified person to be a judge.”

2 For section 134 substitute—

##### **“134 Evidence of health**

Before selecting any person for recommendation for appointment as a county court judge, the Northern Ireland Judicial Appointments Commission must take steps to satisfy itself that that person’s health is satisfactory.”

##### *Magistrates' Courts Act (Northern Ireland) 1964 (c. 21 (N.I.))*

3 In section 9(1) omit “, on the recommendation of the Lord Chancellor.”.

##### *Northern Ireland Act 1998 (c. 47)*

4 After paragraph 2 of Schedule 11 insert—

“2A (1) The Lord Chancellor may only appoint persons to the Tribunal who have been selected by the Northern Ireland Judicial Appointments Commission as follows.

(2) The Lord Chancellor may at any time by notice require the Commission to select a person for appointment.

(3) The Commission must then select a person for appointment and notify the Lord Chancellor accordingly.

(4) The Lord Chancellor must then appoint the selected person.

(5) Section 5A of, and Part 4 of Schedule 3 to, the Justice (Northern Ireland) Act 2002 apply for the purposes of selections under this paragraph as they apply for the purposes of selections under that Schedule.”

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*Status: This is the original version (as it was originally enacted).*

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*Justice (Northern Ireland) Act 2004 (c. 4)*

- 5 Omit sections 3 to 5 and paragraph 3 of Schedule 1.

*Constitutional Reform Act 2005 (c. 4)*

- 6 (1) Amend Schedule 5 as follows.
- (2) In paragraph 115(2) omit “8(7),”.
- (3) Omit paragraphs 116 and 123.
- 7 (1) Amend paragraph 4 of Schedule 7 as follows.
- (2) Omit the entries for the following—
- (a) section 102(1) of the County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.));
  - (b) sections 9(1) and 12A(2) of the Magistrates' Courts Act (Northern Ireland) 1964 (c. 21 (N.I.));
  - (c) sections 1(2) and 3(1) and (2) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964 (c. 29 (N.I.));
  - (d) sections 12, 12B, 70(1), (3), (5) and (6) and 103(3) of the Judicature (Northern Ireland) Act 1978 (c. 23);
  - (e) paragraphs 1, 2 and 3 of Schedule 3 to the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4));
  - (f) Article 22(2)(a) and (b) and (4)(b) of the Education (Northern Ireland) Order 1996 (S.I. 1996/274 (N.I. 1));
  - (g) Articles 6(1) and 7(1) and (4) of the Social Security (Northern Ireland) Order 1998 (S.I. 1998/1506 (N.I. 10));
  - (h) Article 82(1), (3) and (6) of the Fair Employment and Treatment (Northern Ireland) Order 1998 (S.I. 1998/3162 (N.I. 21));
  - (i) sections 5(3), (4), (5), (6) and (7) and 9(1) and (11) of the Justice (Northern Ireland) Act 2002 (c. 26);
  - (j) paragraph 3(2) of Schedule 2 to the Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (S.I. 2003/431 (N.I. 9)).
- (3) In the entries relating to the County Courts Act (Northern Ireland) 1959 (c. 25 (N.I.)) for “107(1), (3) and (7)” substitute “107(7)”.
- (4) In the entries relating to the Judicature (Northern Ireland) Act 1978—
- (a) at the appropriate places insert “Sections 12B and 12C” and “Section 70(1B)”;
  - (b) for “74(1), (3) and (5)” substitute “74(5)”.
- (5) In the entries relating to the Northern Ireland Act 1998 (c. 47) after “2(1) and (3),” insert “2A,”.
- (6) In the entries relating to the Justice (Northern Ireland) Act 2002 (c. 26) at the appropriate place insert “Schedule 3, Part 1”.
- 8 Omit paragraphs 36 to 39 of Schedule 17.

*Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33)*

9 Omit section 28.

**PART 2**

TRANSITIONAL PROVISION

- 10 (1) This paragraph applies if—
- (a) before the coming into force of this paragraph the Prime Minister has selected a person for recommendation for appointment to the office of Lord Chief Justice or Lord Justice of Appeal under section 12 of the Judicature (Northern Ireland) Act 1978 (c. 23), but
  - (b) when this paragraph comes into force the person has not been appointed.
- (2) Section 12 of the 1978 Act applies in relation to the appointment of the person, ignoring its substitution by this Act.
- 11 (1) This paragraph applies if before the coming into force of this paragraph a tribunal is convened under section 135 of the Constitutional Reform Act 2005 (c. 4) in relation to a matter (“the relevant matter”) for the purposes of—
- (a) section 134 of that Act, or
  - (b) section 12B of the Judicature (Northern Ireland) Act 1978.
- (2) In a case covered by sub-paragraph (1)(a), for the purpose of dealing with the relevant matter sections 134 and 135 of the 2005 Act continue to apply, ignoring their repeal by the Justice (Northern Ireland) Act 2002.
- (3) In a case covered by sub-paragraph (1)(b), for the purpose of dealing with the relevant matter section 135 of the 2005 Act and section 12B of the 1978 Act continue to apply, ignoring—
- (a) the repeal of section 135 by the Justice (Northern Ireland) Act 2002, and
  - (b) the substitution of section 12B by this Act.
- 12 (1) This paragraph applies if—
- (a) before the coming into force of this paragraph a notice under section 5(3) of the Justice (Northern Ireland) Act 2002 is given requiring the Northern Ireland Judicial Appointments Commission to select a person for appointment, or recommendation for appointment, to a listed judicial office (“the relevant requirement”), and
  - (b) at the time this paragraph comes into force, no appointment has been made.
- (2) Section 5 of the 2002 Act, and any other relevant provision made by or under an Act or Northern Ireland legislation, continues to apply in relation to the relevant requirement as it applied immediately before the coming into force of this paragraph and, accordingly, the appointment is to be made as it would have been made immediately before the coming into force of this paragraph.
- 13 Paragraph 8(2) of Schedule 3 to this Act has no effect in relation to maladministration alleged to have occurred before the coming into force of paragraph 8(2) (whether or not a complaint is made before then).
- 14 Despite its repeal by paragraph 9 of Schedule 3 to this Act, section 9G of the Justice (Northern Ireland) Act 2002 (c. 26) continues to apply in relation to any matter arising before the coming into force of paragraph 9 (whether or not the matter is

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referred to the Ombudsman before then) and section 9H of the 2002 Act continues to apply accordingly, ignoring paragraph 10 of Schedule 3 to this Act.

15 In section 9I(2) of the Justice (Northern Ireland) Act 2002 (as amended by paragraph 11 of Schedule 3 to this Act)—

(a) in paragraph (a) the reference to sections 12 to 12C of the Judicature (Northern Ireland) Act 1978 (c. 23) is to be read as including a reference to sections 12 and 12B of the 1978 Act before their substitution by this Act (including as applied by paragraph 10 or 11 of this Schedule);

(b) in paragraph (ba) the reference to Schedule 3 to the 2002 Act is to be read as including a reference to section 5 of the 2002 Act before its substitution by this Act (including as applied by paragraph 12 of this Schedule).

16 (1) This paragraph applies in relation to a function which, by virtue of Schedule 4 to this Act, is transferred from one person (“A”) to another person (“B”).

This includes cases where a function is exercisable by B with the agreement of a third person (and references below to B are to be read accordingly as necessary or appropriate).

(2) Anything done by, on behalf of or in relation to A in relation to the function has effect as if done by, on behalf of or in relation to B, so far as necessary or appropriate for continuing its effect after the transfer.

(3) Anything (including legal proceedings) which, immediately before the transfer, is in the process of being done by, on behalf of or in relation to A in relation to the function may be continued by, on behalf of or in relation to B.

(4) So far as necessary or appropriate in consequence of the transfer or sub-paragraph (2) or (3) above, in any provision made by or under an Act or Northern Ireland legislation or in any instrument, agreement or other document a reference to A is to be treated as a reference to, or as including a reference to, B.

(5) In sub-paragraphs (2) to (4) above, references to A include references to any person who had the function before A.

(6) This paragraph is subject to paragraph 12 of this Schedule.