

JUSTICE (NORTHERN IRELAND) ACT 2002

EXPLANATORY NOTES

COMMENTARY

Part 2: Law Officers and Public Prosecution Service

Advocate General

Section 27: Advocate General

52. There are certain functions of the present Attorney General for Northern Ireland that cannot be given to the Attorney General for Northern Ireland appointed by the First Minister and deputy First Minister. These relate to matters over which the Northern Ireland Assembly has no jurisdiction. These ‘excepted matters’ are set out in Schedule 2 to the Northern Ireland Act 1998 and include, for example, international relations (including treaties and the European Union), the defence of the realm, taxation and national security. Accordingly, this section establishes a new post of Advocate General for Northern Ireland to take responsibility for Northern Ireland interests in these issues. *Subsection (1)* of this section makes the Attorney General for England and Wales the holder of this post. The amendments set out in *subsection (2)* allow the Solicitor General (as the Attorney General for England and Wales’s deputy) to also carry out the functions of the Advocate General for Northern Ireland. This is done by amending the provisions of the Law Officers Act 1997. The office and functions of the Advocate General are made an excepted matter by means of *subsection (4)*, which adds them to the list of excepted matters in Schedule 2 to the Northern Ireland Act 1998.

Section 28: Functions of Advocate General

53. This section introduces Schedule 7 to the Act which sets out the functions of the new post of Advocate General for Northern Ireland (see also below). The Secretary of State can by order transfer to the Advocate General other functions of giving consent to the institution or conduct of criminal proceedings (*subsection (2)*).