

*These notes refer to the Justice Act (Northern Ireland)
2011 (c.24) which received Royal Assent on 4 May 2011*

Justice Act (Northern Ireland) 2011

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedules

Schedule 1: Policing and Community Safety Partnerships

This Schedule sets out how a Policing and Community Safety Partnership (PCSP) under Part 3 is to be established and the arrangements for its proceedings.

Paragraph 3: Political members

This paragraph details that the number of political members is determined by the council based on the number of members constituting the council. In appointing political members the council must ensure as far as possible that they reflect the balance of the parties prevailing among the members of the council immediately after the last local general election. This paragraph also details how long a political member can hold office, how they vacate office and when a casual vacancy can and cannot be filled.

Paragraphs 4 - 6: Independent members

These paragraphs detail how the number of independent members should be determined; how the independent members should be appointed; how long they should hold office; how they vacate office; and when a casual vacancy can and cannot be filled. These paragraphs also detail that the Department of Justice is responsible for preparing and revising a code of practice in relation to the appointment of independent members.

Paragraph 7: Representatives of designated organisations

This paragraph details the minimum number of representatives from delivery partners that should be on each PCSP and who is responsible for designating organisations that must be represented. It provides that there should be at least four designated organisations. The paragraph also details that a PCSP is responsible for the revoking a designated organisation's membership. It also allows the Department of Justice by order to designate organisations which must be on each PCSP. The Department must consult with each PCSP and lay the

order before the Northern Ireland Assembly for approval by resolution before making the order.

Paragraph 8: Removal of members

This paragraph details that the Policing Board or the council with the approval of the Policing Board is responsible for the removal of political and independent members of a PCSP. The paragraph sets out the circumstances in which members of a PCSP can be removed.

Paragraph 9: Disqualification

This paragraph sets out the circumstances in which persons are disqualified from membership of a PCSP.

Paragraph 10: Chair and vice-chair

This paragraph provides for the appointment of a chair and a vice-chair of a PCSP. It sets out that the chair must be appointed by the council from among the political members and that the vice-chair will be elected by the independent members from such members. The person appointed to the office of chair shall usually be appointed for a term of 12 months and the office will be held in turn by each of the largest four parties represented on the council. The paragraph explains how a member resigns from the position of chair and vice-chair of the PCSP.

Paragraph 11: Procedure of PCSP

This paragraph details that there is a quorum for each meeting of a PCSP which shall be one-quarter of the total of members. The paragraph also sets out how each question at a meeting of a PCSP shall be determined and what happens in the event of the elected chair and vice-chair being absent from a meeting of a PCSP.

Paragraph 12: Policing committee: constitution

This paragraph sets out that there shall be a policing committee for each PCSP consisting of political members and independent members. The paragraph explains that each policing committee shall have a chair who is the chair of the PCSP and a vice-chair elected by the independent members. If a person wishes to resign from the position of vice-chair they must do so in writing to the Policing Board. The paragraph also explains that if a person ceases to be a member of the policing committee they will automatically vacate the position of chair or vice-chair.

Paragraph 13: Policing committee: procedure

This paragraph details that there is a quorum of 5 for a meeting of the policing committee. The paragraph also sets out how each question at a meeting of a policing committee shall be determined and what happens in the event of

the elected chair and vice-chair being absent from a meeting of a PCSP. The paragraph explains that a policing committee may constitute sub-committees to be made up of 5 or more of its members. The policing committee can delegate to a sub-committee any of its functions.

Paragraph 14: Other committees

This paragraph provides for a PCSP to constitute other committees made up of 5 or more of its members. A PCSP can delegate to a committee any of the functions of the PCSP except the functions restricted to the policing committee. This paragraph allows for a committee appointed to co-opt other persons who are not members of the committee or the PCSP.

Paragraph 15: Indemnities

This paragraph details that the council can cover a PCSP member in respect of liability incurred by that member in connection with the business of the PCSP.

Paragraph 16: Insurance against accidents

This paragraph sets out that the council may insure against risks of a member of the PCSP meeting with a personal accident, whether fatal or not, whilst engaged in PCSP business.

Paragraph 17: Expenses

This paragraph provides that the council may pay members of the PCSP such expenses as the council determines.

Paragraph 18: Finance

This paragraph requires the Department of Justice and the Policing Board to make a grant for each financial year to the district council towards the expenses incurred by the council in connection with the establishment of, or the exercise of the functions by, PCSPs.

Paragraphs 19 & 20: Validity of proceedings & Disclosure of pecuniary interests, family connections etc.

These paragraphs set out the circumstances which should not affect the proceedings of a PCSP.

Paragraph 21: Joint PCSPs

This paragraph enables the Department of Justice, after consultation with the Policing Board and the councils affected, to provide by order that two or more councils can establish a joint PCSP for their districts.

Paragraph 22: Belfast PCSP

This paragraph makes modifications to the Schedule in relation to the Belfast PCSP to accommodate the DPCSPs.

Schedule 2: District Policing and Community Safety Partnerships

This Schedule sets out how a District Policing and Community Safety Partnerships (DPCSP) in Part 3 is to be established for each police district of Belfast and the arrangements for their proceedings.

Paragraph 2: Composition

This paragraph sets out that each DPCSP shall consist of 6 political members; 5 independent members; and representatives nominated by designated organisations. It also provides that members of DPCSPs need not be members of the principal PCSP.

Paragraph 3: Political members

This paragraph details that the number of political members is determined by the council based on the number of members constituting the council. In appointing political members the council must ensure as far as possible that they reflect the balance of the parties prevailing among the members of the council immediately after the last local general election. This paragraph also details how long a political member can hold office, how they vacate office and when a casual vacancy can and cannot be filled.

Paragraphs 4 - 6: Independent members

These paragraphs detail how the number of independent members should be determined; how the independent members should be appointed; how long they should hold office; how they vacate office; and when a casual vacancy can and cannot be filled. These paragraphs also detail that the Department of Justice is responsible for preparing and revising a code of practice in relation to the appointment of independent members.

Paragraph 7: Representatives of designated organisations

This paragraph details the minimum number of representatives from delivery partners that should be on each DPCSP and who is responsible for designating organisations that must be represented on each DPCSP. It provides that there should be at least 4 designated organisations. The paragraph also details that a DPCSP is responsible for the revoking a designated organisation's membership. It also allows the Department of Justice by order to designate organisations which must be on each DPCSP. The Department must consult with each DPCSP and lay the order before the Northern Ireland Assembly for approval by resolution before making the order.

Paragraph 8: Removal of members

This paragraph details that the Policing Board or the council with the approval of the Policing Board is responsible for the removal of political and independent members of a DPCSP. The paragraph sets out the circumstances in which members of the DPCSP can be removed.

Paragraph 9: Disqualification

This paragraph sets out the circumstances in which persons are disqualified from membership of a DPCSP.

Paragraph 10: Chair and vice-chair

This paragraph provides for the appointment of a chair and a vice-chair of a DPCSP. It sets out that the chair must be appointed by the council from among the political members and that the vice-chair will be elected by the independent members from such members. The person appointed to the office of chair shall usually be appointed for a term of 12 months and the office will be held in turn by each of the largest four parties represented on the council. The paragraph explains how a member resigns from the position of chair and vice-chair of the DPCSP.

Paragraph 11: Procedure of DPCSP

This paragraph details that there is a quorum for each meeting of a PCSP which shall be one-quarter of the total of members. The paragraph also sets out how each question at a meeting of a DPCSP shall be determined and what happens in the event of the elected chair and vice-chair being absent from a meeting of a DPCSP.

Paragraph 12: Policing committee: constitution

This paragraph sets out that there shall be a policing committee for each DPCSP consisting of political members and independent members. The paragraph explains that each policing committee shall have a chair who is the chair of the DPCSP and a vice-chair elected by the independent members. If a person wishes to resign from the position of vice-chair they must do so in writing to the Policing Board. The paragraph also explains that if a person ceases to be a member of the policing committee they will automatically vacate the position of chair or vice-chair.

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be made up of 5 or more of its members. The policing committee can delegate to a sub-committee any of its functions.

Paragraph 14: Other committees

This paragraph provides for a DPCSP to constitute other committees made up of 5 more of its members. A DPCSP can delegate to a committee any of the functions of the DPCSP except the functions restricted to the policing committee. This paragraph allows for a committee appointed to co-opt other persons who are not members of the committee or the DPCSP.

Paragraph 15: Indemnities

This paragraph details that the council can cover a DPCSP member in respect of liability incurred by that member in connection with the business of the DPCSP.

Paragraph 16: Insurance against accidents

This paragraph sets out that the council may insure against risks of a member of the DPCSP meeting with a personal accident, whether fatal or not, whilst engaged in DPCSP business.

Paragraph 17: Expenses

This paragraph provides that the council may pay members of the DPCSP such expenses as the council determines.

Paragraph 18: Finance

This paragraph requires the Department of Justice and the Policing Board to make a grant for each financial year to the district council towards the expenses incurred by the council in connection with the establishment of, or the exercise of the functions by DPCSPs.

Paragraphs 19 & 20: Validity of proceedings & Disclosure of pecuniary interests, family connections etc.

These paragraphs set out the circumstances which should not affect the proceedings of a DPCSP.

Schedule 3: Regulated matches

This Schedule sets out the “regulated matches” for the sports law provisions under Part 4 of the Act. The provisions in each of the Chapters 1 to 4 of Part 4 apply to a different set of “regulated matches”. Each of the Schedule’s paragraphs 2 to 9 describes a different set of matches and section 35 specifies which of those paragraphs applies to which Chapter in Part 4.

Paragraph 1:

This paragraph of the Schedule defines terms: “the IFA” as the Irish Football Association; “the FAI” as the Football Association of Ireland; “FIFA” as the Fédération Internationale de Football Association; “the IRFU” as the Irish Rugby Football Union; “gaelic game” as gaelic football (including international rules football), hurling or camogie; “member” to include a full or associate member; and “UEFA” as Union des Associations Européennes de Football.

Paragraphs 2 - 5: Association football.

These are association football matches where -

Paragraph 2: one or both participating teams represent a country or territory.

Paragraph 3: one or both participating teams represents a club which is for the time being a member of:

- the IFA Premiership,
- the IFA Championship,
- the FAI Premier League, or
- the FAI First Division.

Paragraph 4: one or both participating teams represents a club which is for the time being a member of:

- the Football League,
- the Football Association Premier League,
- the Football Conference,
- the Welsh Premier League,
- the Scottish Premier League, or
- the Scottish Football League.

Paragraph 5: a match being played in Northern Ireland -

- in which one or both participating teams is a member of, or affiliated to, a national football association which is a member of FIFA,
- which is part of a competition or tournament organized by, or under the authority of FIFA or UEFA

Paragraphs 6 & 7: Gaelic games.

These include a match played at a sports ground in Northern Ireland which is designated as requiring a safety certificate under Part 2 of the Safety of Sports ground (Northern Ireland) Order 2006 (paragraph 6); and a match played outside

Northern Ireland in which one or both participating teams represents a county or which is an international rules football match (paragraph 7).

Paragraphs 8 & 9: Rugby union.

These comprise a rugby union match which subject to regulation by the IRFU, and is played at a sports ground in Northern Ireland which is designated as requiring a safety certificate under Part 2 of the Safety of Sports ground (Northern Ireland) Order 2006 (paragraph 8); and a match which is subject to regulation by the IRFU, is played outside Northern Ireland and in which one or both participating teams represents Ireland or Ulster Rugby (paragraph 9).

Schedule 4: Penalty offences and penalties

This Schedule lists the offences covered by the Penalty Notices created by Part 6 and the penalty payable in respect of that penalty offence.

The offences and the penalties are:

- indecent behaviour in any street, road, highway or other public place, or in any place to which the public have access - £40
- theft (guidance will state this is for first-time shoplifting only) - £80
- destroying, damaging or intending to do so to any property belonging to or being reckless as to whether any such property would be destroyed or damaged (guidance will state this is for damage valued at under £200) - £80
- drunk in any road or other public place - £40
- disorderly behaviour in any public place - £80
- behaviour likely to cause a breach of the peace in a public place - £80
- assaulting, resisting, obstructing or impeding a constable in the execution of his duty - £80

Schedule 5: Enhanced legal aid fees for certain solicitors

Paragraph 1: Power to provide for enhanced fee

This paragraph provides the power to provide for enhanced fees to a solicitor who is exercising a relevant right of audience; is accredited by the Law Society; and has complied with the duties listed in paragraph 3. The Schedule applies to rights of audience in the Crown Court, a county court, a magistrates' court and certain tribunals.

Paragraph 2: Accreditation of Solicitors

This paragraph outlines that the Law Society will make regulations regarding the accreditation of solicitors. It allows a solicitor to apply to the Law Society for accreditation and outlines the application process.

Paragraph 3: Duties of solicitor

This paragraph sets out the duties of the solicitor where the client will be represented by an accredited solicitor. The solicitor is required to advise the client of the advantages and disadvantages of representation by an accredited solicitor and by counsel. The Law Society will make regulations outlining how this is to be done. The solicitor must inform a court or tribunal before which they are representing the client that they have given such advice. The solicitor must act in the best interest of the client and comply with any decision they make as to representation by an accredited solicitor or counsel. If the solicitor fails to comply with any of the duties in this paragraph any person may make a complaint against the solicitor to the Solicitors Disciplinary Tribunal.

Paragraph 4: Regulations

This paragraph sets out that regulations made under this Schedule require the concurrence of the Lord Chief Justice and the Department of Justice which must consult with the Attorney General.

Paragraph 5: Consequential Amendments

This paragraph allows the Department of Justice to make consequential amendments to the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 or to Schedule 3 to the Access to Justice (Northern Ireland) Order 2003 as appears necessary.

Paragraph 6: Interpretation

This paragraph provides definitions for the terms used in this Schedule.

Schedule 6: Transitional and saving provisions

This Schedule lists the transitional and saving provisions necessary to the Act.

Schedule 7: Minor and consequential amendments

This Schedule lists the minor and consequential amendments necessary in the Act.

Schedule 8: Repeals

This Schedule lists the repeals brought in by the Act.