

Changes to legislation: Justice (Northern Ireland) Act 2002, SCHEDULE 3A is up to date with all changes known to be in force on or before 03 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

SCHEDULES

[^{F1}SCHEDULE 3A

THE NORTHERN IRELAND JUDICIAL APPOINTMENTS OMBUDSMAN

Textual Amendments

- F1** Sch. 3A inserted (25.9.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 124, 148, [Sch. 15](#); [S.I. 2006/1537](#), [art. 3](#)

[^{F2}Circumstances where Ombudsman ineligible to exercise specified functions

Textual Amendments

- F2** Sch. 3A paras. 1-1C and cross-headings substituted for Sch. 3A para. 1 (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, [Sch. 6 para. 4](#)

- 1 (1) The Ombudsman is ineligible to exercise specified functions if either sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies where the Ombudsman—
- (a) is engaged in political activity as a member of a political party; or
 - (b) has ever been any of these—
 - (i) a practising barrister in England and Wales;
 - (ii) a practising solicitor of the Senior Courts of England and Wales;
 - (iii) a practising advocate in Scotland;
 - (iv) a practising solicitor in Scotland;
 - (v) a practising member of the Bar of Northern Ireland;
 - (vi) a practising solicitor of the Court of Judicature of Northern Ireland;
 - (vii) the holder of a listed judicial office.
- (3) This sub-paragraph applies where the Ombudsman considers—
- (a) that the Ombudsman has exercised functions that appear to be of a judicial nature and such as to make it inappropriate for the Ombudsman to exercise specified functions; or
 - (b) that past service in a capacity mentioned in sub-paragraph (5) makes it inappropriate for the Ombudsman to exercise specified functions.
- (4) As part of the considerations under sub-paragraph (3), the Ombudsman may consult the Department of Justice.
- (5) The service referred to in sub-paragraph (3)(b) is service as any of these –
- (a) a Commissioner;
 - (b) a member of staff of the Commission;

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- (c) a person employed in the civil service of the State.

Ombudsman to direct a person to exercise specified functions

- 1A (1) Sub-paragraph (2) applies where—
- (a) the provisions of this Act require the Ombudsman to exercise a specified function; but
 - (b) the Ombudsman is, under paragraph 1, ineligible to exercise that function.
- (2) The Ombudsman must direct—
- (a) a member of the office of the Northern Ireland Public Services Ombudsman; or
 - (b) any other appropriate person;
- to exercise that function on behalf of the Ombudsman.
- (3) The Ombudsman may direct—
- (a) different persons to exercise different functions,
 - (b) different persons to exercise the same function.
- (4) Where the Ombudsman has directed a person to exercise a specified function, that person is to be treated, for the purposes of exercising that function, as the Ombudsman.

Persons whom the Ombudsman must not direct

- 1B (1) The Ombudsman must not direct a person under paragraph 1A if either sub-paragraph (2) or (3) applies.
- (2) This sub-paragraph applies where—
- (a) the person is employed in the civil service of the State;
 - (b) the person is a member of the House of Commons;
 - (c) the person is a member of the Northern Ireland Assembly;
 - (d) the person is engaged in political activity as a member of a political party;
 - (e) the person has ever been any of these—
 - (i) a practising barrister in England and Wales;
 - (ii) a practising solicitor of the Senior Courts of England and Wales;
 - (iii) a practising advocate in Scotland;
 - (iv) a practising solicitor in Scotland;
 - (v) a practising member of the Bar of Northern Ireland;
 - (vi) a practising solicitor of the Court of Judicature of Northern Ireland;
 - (vii) the holder of a listed judicial office.
- (3) This sub-paragraph applies where the Ombudsman considers—
- (a) that the person has exercised functions that appear to be of a judicial nature and such as to make it inappropriate for the person to exercise specified functions; or
 - (b) that past service in a capacity mentioned in sub-paragraph (5) make it inappropriate for the person to exercise specified functions.
- (4) As part of the considerations under sub-paragraph (3), the Ombudsman may consult the Department of Justice.

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- (5) The service referred to in sub-paragraph (3)(b) is service as any of these—
- (a) a Commissioner;
 - (b) a member of staff of the Commission;
 - (c) a person employed in the civil service of the State.

Meaning of “specified functions” and “practising”

- 1C (1) For the purposes of this Schedule, the functions of the Ombudsman set out in the following provisions are specified functions—
- (a) section 8;
 - (b) in section 9D, subsections (2), (3) and (4);
 - (c) section 9E;
 - (d) section 9F;
 - (e) section 9H.
- (2) In section 7(6A)(c), the function of convening a tribunal by the Ombudsman is a specified function for the purposes of this Schedule, but the person to be notified by the Lord Chief Justice under that subsection is the Ombudsman and not a person that the Ombudsman has directed to exercise a specified function.]
- 2 (1) In this Schedule “practising” is to be read in accordance with sub-paragraphs (2) and (3).
- (2) A barrister in England and Wales, an advocate in Scotland or a member of the Bar of Northern Ireland is practising if he is—
- (a) practising as such,
 - (b) employed to give legal advice, or
 - (c) providing legal advice under a contract for services.
- (3) A solicitor of the Supreme Court, a solicitor in Scotland or a [^{F3}solicitor of the Court of Judicature of Northern Ireland] is practising if he is—
- (a) acting as such,
 - (b) employed to give legal advice, or
 - (c) providing legal advice under a contract for services.

Textual Amendments

- F3** Words in Sch. 3A para. 2(3) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 59\(5\), 148, Sch. 11 para. 5; S.I. 2009/1604, art. 2](#)

Term of office etc. of Ombudsman

^{F4}3

Textual Amendments

- F4** Sch. 3A para. 3 repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 6 para. 5\(a\), Sch. 9](#)

^{F5}4

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Textual Amendments

F5 Sch. 3A para. 4 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 6 para. 5(a), **Sch. 9**

F65

Textual Amendments

F6 Sch. 3A para. 5 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 6 para. 5(a), **Sch. 9**

Salary, allowances and expenses

F76

Textual Amendments

F7 Sch. 3A para. 6 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 6 para. 5(b), **Sch. 9**

Acting Ombudsman

F87

Textual Amendments

F8 Sch. 3A para. 7 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, Sch. 6 para. 5(c), **Sch. 9**

Status of the Ombudsman

8 The person for the time being holding the office of the Ombudsman is by the name of that office a corporation sole.

Powers of the Ombudsman

- 9 (1) The Ombudsman does not have power to do any of the following—
 - (a) to borrow money;
 - (b) to hold real property;
 - (c) to appoint staff (except by way of arrangements under paragraph 10).
- (2) Subject to sub-paragraph (1), the Ombudsman may do anything calculated to facilitate, or incidental or conducive to, the carrying out of any of his functions.
- (3) Nothing in this Schedule is to be read as limiting the generality of sub-paragraph (2).

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Arrangements for assistance

- 10 (1) The Ombudsman may make arrangements with such persons as he considers appropriate for assistance to be provided to him.
- (2) Arrangements may include the paying of fees to such persons.
- [^{F9}(3) In making arrangements, the Ombudsman must have regard to the desirability of keeping fees broadly in line with those paid by the civil service of Northern Ireland.]

Textual Amendments

F9 Sch. 3A para. 10(3) substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, [Sch. 6 para. 6](#)

Arrangements by the Lord Chancellor

^{F10}11

Textual Amendments

F10 Sch. 3A para. 11 repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, [Sch. 6 para. 7](#), [Sch. 9](#)

Delegation of functions

- 12 (1) The Ombudsman may delegate any functions to—
- (a) any person with whom arrangements are made under paragraph 10 ^{F11}..., or
 - (b) any person providing assistance to the Ombudsman in pursuance of such arrangements.
- (2) But all recommendations and reports prepared by or on behalf of the Ombudsman must be signed by him.

[Sub-paragraph (1) does not apply to the Ombudsman's functions under section 7 or ^{F12}(3) 8 of this Act or section 12B or 12C of the Judicature (Northern Ireland) Act 1978.]

Textual Amendments

F11 Words in [Sch. 3A para. 12\(1\)\(a\)](#) repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, [Sch. 6 para. 8](#), [Sch. 9](#)

F12 [Sch. 3A para. 12\(3\)](#) inserted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), [Sch. 3 para. 14](#); [S.I. 2010/812](#), art. 2

Financial provisions and directions

^{F13}13

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Textual Amendments

- F13** Sch. 3A para. 13 repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, Sch. 6 para. 9, **Sch. 9**

Code of conduct

F14 14

Textual Amendments

- F14** Sch. 3A para. 14 repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, Sch. 6 para. 10, **Sch. 9**

Reports

15 (1) The Ombudsman must, as soon as practicable after the end of each financial year, [^{F15}lay before the Assembly] a report about the performance of his functions during that year.

^{F16}(2)

^{F16}(3)

^{F17}(4)

(5) The Ombudsman must publish any report once copies of it have been laid [^{F18}before the Assembly].

[Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the ^{F19}(6) purposes of sub-paragraph [^{F20}(1)] in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.]

Textual Amendments

F15 Words in Sch. 3A para. 15(1) substituted (1.4.2016) by virtue of [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 6 para. 11(a)**

F16 Sch. 3A para. 15(2)(3) omitted (1.4.2016) by virtue of [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 6 para. 11(b)**

F17 Sch. 3A para. 15(4) repealed (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, Sch. 6 para. 11(b), **Sch. 9**

F18 Words in Sch. 3A para. 15(5) substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 6 para. 11(c)**

F19 Sch. 3A para. 15(6) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 18 para. 68(b)** (with arts. 28-31)

F20 Word in Sch. 3A para. 15(6) substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\)](#), s. 64, **Sch. 6 para. 11(d)**

Modifications etc. (not altering text)

C1 Sch. 3A para. 15: transfer of functions (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), art. 1(2), **Sch. 17 para. 17** (with arts. 28-31)

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Documentary evidence

- 16 A document purporting to be an instrument issued by the Ombudsman and to be signed by or on behalf of the Ombudsman is to be received in evidence and, unless the contrary is proved, taken to be such an instrument and signed in that way.

General

- 17 (1) Financial year in this Schedule, means—
- (a) the period beginning with the date on which section 9A comes into force and ending with the following 31 March, and
 - (b) each successive period of twelve months.
- (2) In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c. 24) (other disqualifying offices) at the appropriate place insert— The Northern Ireland Judicial Appointments Ombudsman.
- (3) In Part 6 of Schedule 1 to the Freedom of Information Act 2000 (c. 36) (other public bodies and offices which are public authorities) at the appropriate place insert— The Northern Ireland Judicial Appointments Ombudsman.]

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Changes and effects yet to be applied to the whole Act associated Parts and Chapters:

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 31(1A) inserted by [2023 c. 41 Sch. 13 para. 5\(2\)](#)
- s. 31(7) inserted by [2023 c. 41 Sch. 13 para. 5\(4\)](#)