

*These notes refer to the Justice Act (Northern Ireland)  
2016 (c.21) which received Royal Assent on 12 May 2016*

# Justice Act (Northern Ireland) 2016

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## EXPLANATORY NOTES

### SCHEDULES

#### *Schedule 3*

##### **The Prison Ombudsman**

###### *Paragraph 1: Appointment*

This paragraph sets out that the Department appoints a person to be the Ombudsman. This will be achieved by way of a public appointment process.

###### *Paragraph 2: Status*

The Ombudsman is not the servant or an agent of the Crown.

###### *Paragraph 3: Term of office*

This paragraph sets out that the appointment will be for a single term of seven years. This term is in line with arrangements for comparable post-holders, and is considered to support the independence of the office, as there is no provision for a second term.

###### *Paragraph 4: Resignation/Removal*

This paragraph provides that a person holding office may resign by providing written notice (para 4(1)).

The Department may remove a person from office on certain specified grounds which are: ill-health, failure without reasonable excuse to discharge the functions of the office for a period of 3 months, bankruptcy, conviction of a criminal offence or otherwise inability, unfitness or unwillingness to perform the functions of the office (para 4(2)).

###### *Paragraphs 5 and 6: Remuneration and allowances*

These paragraphs set out that the Department will determine the salary and allowances payable; rates will be set to attract appropriate candidates. The position will be pensionable.

***Paragraph 7: Appointment of acting Ombudsman***

This paragraph provides that if there is a vacancy the Department can make a short term appointment of an acting Ombudsman.

***Paragraph 8: The Ombudsman's officers***

This paragraph sets out that the Ombudsman can appoint staff with numbers and conditions of employment subject to the approval of the Department.

It is anticipated the office will be staffed by seconded civil servants, however the Ombudsman will also have the flexibility to second staff from other organisations. The Ombudsman may authorise staff to perform any of the functions of the office.

***Paragraph 9: Advisers***

This paragraph sets out that the Ombudsman may obtain advice from any person qualified to give it. This is likely to include legal, clinical and public relations advisers to assist in the exercise of the Ombudsman's functions.

***Paragraph 10: Documents***

This paragraph sets out that documents signed by or on behalf of the Ombudsman will be received in evidence and be taken to be so signed unless the contrary is proved.

***Paragraph 11: Finance***

This paragraph sets out that the Department will provide the Ombudsman with such sums as appear to it to be appropriate for meeting the expenses of the office, and determine the terms and conditions of that financing.

***Paragraph 12: Annual report***

This paragraph provides that the Ombudsman must prepare an annual report as soon as practicable after the end of the financial year on how the functions of the office have been carried out (para 12(1)).

The Department will lay a copy of the report before the Assembly and arrange for it to be published (para 12(2)).

***Paragraph 13: Data protection***

This paragraph adds the Prison Ombudsman to the list of bodies that are exempt from the subject information provisions in any case, to the extent to which the application of those provisions to the data would be likely to prejudice the proper discharge of those functions.

***Paragraph 14: Freedom of information***

This paragraph adds the Prison Ombudsman to the list of ombudsmen that the Information Commissioner may disclose information to if it appears to the Commissioner that the information relates to a matter which could be the subject of an investigation by that ombudsman (para 14(1)).

It also adds the Prison Ombudsman to the list of Public Authorities detailed in the Freedom of Information Act (para 14(2)).

***Paragraph 15: Public Services Ombudsperson***

This paragraph adds the Prison Ombudsman to the list of bodies that can be investigated by the Public Services Ombudsperson.

***Paragraph 16: Interpretation***

This paragraph explains the meanings of words used within the Schedule.