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## SCHEDULES

### SCHEDULE 1

Section 1.

#### THE NORTHERN IRELAND PUBLIC SERVICES OMBUDSMAN

##### *Status*

- 1.—(1) The person for the time being holding the office of the Northern Ireland Public Services Ombudsman is by that name a corporation sole.
- (2) The Ombudsman is not to be regarded—
- (a) as the servant or agent of the Crown, or
  - (b) as enjoying any status, immunity or privilege of the Crown.
- (3) Property held by the Ombudsman is not to be regarded as property of, or held on behalf of, the Crown.
- (4) But the Ombudsman is a Crown servant for the purposes of the Official Secrets Act 1989.

##### *Eligibility*

- 2.—(1) A person is disqualified from being appointed as the Ombudsman if the person is a member of—
- (a) a district council,
  - (b) the Assembly,
  - (c) the House of Commons,
  - (d) the House of Lords, or
  - (e) the European Parliament.
- (2) Where a person who is the Ombudsman—
- (a) is nominated as a candidate for election to a body listed in sub-paragraph (1), or
  - (b) becomes a member of a body listed in sub-paragraph (1),
- that person ceases immediately to be the Ombudsman.

- 3.—(1) A person is disqualified from being appointed as the Ombudsman if the person is disqualified from being a member of the Assembly.

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(2) Where a person who is the Ombudsman—

- (a) is appointed to an office which would disqualify the person from being a member of the Assembly,
- (b) takes employment which would disqualify the person from being a member of the Assembly, or
- (c) becomes a member of a body which would disqualify the person from being a member of the Assembly,

that person ceases immediately to be the Ombudsman.

(3) In this paragraph “disqualified from being a member of the Assembly” means disqualified from being a member of the Assembly under the Northern Ireland Assembly Disqualification Act 1975 as applied by section 36(1) of the Northern Ireland Act 1998.

(4) But references to disqualification from being a member of the Assembly do not include disqualification by virtue of being—

- (a) the Ombudsman, under Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975, or
- (b) the Northern Ireland Judicial Appointments Ombudsman, under Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975.

4.—(1) A person is disqualified from being appointed as the Ombudsman if the person is—

- (a) a listed authority,
  - (b) a member, officer or member of staff of a listed authority.
- (2) A person who is the Ombudsman is disqualified from being—
- (a) a listed authority,
  - (b) a member, officer or member of staff of a listed authority.

5.—(1) A person is disqualified from being appointed as the Ombudsman if the person—

- (a) holds any other office,
- (b) holds employment, or
- (c) is a member of a body,

in respect of which remuneration or expenses are payable.

(2) A person who is the Ombudsman must not—

- (a) be appointed to any other office,
- (b) take employment, or
- (c) become a member of a body,

in respect of which remuneration or expenses are payable.

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(3) This paragraph has no effect in relation to a particular office, employment or membership if—

- (a) the person gives notice of it to the Assembly Commission—
  - (i) before becoming Ombudsman, or
  - (ii) before being appointed to the office, taking the employment, or becoming the member, as the case may be, and
- (b) the Assembly Commission is of the opinion that the office, employment or membership would not compromise—
  - (i) the ability of the Ombudsman to discharge functions under this Act, and
  - (ii) the independence of the Ombudsman.

(4) But—

- (a) a person is not disqualified from being appointed as Ombudsman by virtue of being the Northern Ireland Judicial Appointments Ombudsman,
- (b) the Ombudsman is not prevented from being the Northern Ireland Judicial Appointments Ombudsman.

### *Salary*

6.—(1) The Assembly Commission must by order determine the salary payable to the Ombudsman.

(2) An order under sub-paragraph (1) may provide for the salary determined by the order to be payable from such date, whether before or after the making of the order, as may be specified in the order.

(3) The salary must not exceed the maximum salary for the time being payable to any person employed in the civil service of Northern Ireland.

(4) The salary must be charged on, and issued out of, the Consolidated Fund.

(5) The salary must be abated by the amount of any pension payable in respect of any public office, in the United Kingdom or elsewhere, to which the Ombudsman had previously been appointed or elected.

### *Pension*

7.—(1) The Assembly Commission must make arrangements for the provision of pension and other benefits for or in respect of persons who have held office as the Ombudsman.

(2) Scheme regulations for a scheme under section 1 of the Public Services Pensions Act (Northern Ireland) 2014, which is a scheme made by virtue of section 1(2)(a) of that Act, have effect with respect to the pension and other benefits

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to be paid in respect of persons who have been the Ombudsman, as if service in that office were service in the employment of the civil service of Northern Ireland.

(3) Any sums required for the purposes of making an arrangement under subparagraph (1) must be charged on, and issued out of, the Consolidated Fund.

(4) Any abatement under paragraph 6(5) is to be disregarded in computing the salary for the purposes of any pension payable by virtue of this paragraph.

#### *Other terms and conditions of appointment*

**8** The Assembly Commission may determine the other terms and conditions of appointment of the Ombudsman.

#### *Removal from office*

**9.**—(1) Her Majesty may, on the passing of a resolution of the Assembly, remove the Ombudsman from office.

(2) The resolution may only be passed on the ground of the Ombudsman's—

- (a) ill health, or
- (b) misconduct.

(3) The resolution is not passed unless it has the support of a number of members of the Assembly which equals or exceeds two-thirds of the total number of seats in the Assembly.

#### *Resignation*

**10** Her Majesty may remove the Ombudsman from office upon request from the Ombudsman.

#### *Restrictions on subsequent employment*

**11.**—(1) When a person ceases to be the Ombudsman, that person must not, without the consent of the Assembly Commission—

- (a) become a listed authority,
- (b) be appointed or elected to a listed authority, other than a listed authority which is a district council,
- (c) become a member, officer or member of staff of a listed authority,
- (d) provide services to a listed authority,
- (e) be appointed or elected by a listed authority to any office or post.

(2) This restriction ends on the expiry of the financial year following the financial year in which the person ceased to be the Ombudsman.

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### *Acting Ombudsman*

**12.—**(1) This paragraph applies where the office of the Ombudsman is vacant.

(2) Her Majesty may, on the nomination of the Assembly, appoint an acting Ombudsman at any time during the period of 12 months beginning with the date on which the vacancy arose.

(3) The acting Ombudsman is to be regarded as the Ombudsman except—

- (a) for the purposes of section 3(1) to (4),
- (b) that the salary payable under paragraph 6 may be of a different amount to that payable to the Ombudsman,
- (c) that the pension arrangements under paragraph 7 may be different to arrangements in respect of the Ombudsman,
- (d) that the terms and conditions of appointment under paragraph 8 may be different to the terms and conditions of appointment of the Ombudsman.

(4) The acting Ombudsman holds office until either—

- (a) the appointment of a new Ombudsman, or
- (b) the expiry of the period of 12 months beginning on the date on which the vacancy arose,

whichever comes first.

(5) A person who is disqualified from being appointed as the Ombudsman is disqualified from being appointed as the acting Ombudsman.

(6) A person appointed as acting Ombudsman may have previously held office as the Ombudsman.

(7) A person appointed as acting Ombudsman is not disqualified from being appointed as the Ombudsman by virtue of that fact.

(8) A person appointed as acting Ombudsman is also to be regarded as holding office as Ombudsman for the purposes of section 9A(2) of the Justice (Northern Ireland) Act 2002 (Northern Ireland Judicial Appointments Ombudsman).

### *General powers*

**13** The Ombudsman may do anything (including acquire or dispose of property or rights) which is calculated to facilitate, or is conducive or incidental to, the discharge of the Ombudsman's functions.

### *Delegation of functions*

**14.—**(1) Any function of the Ombudsman may be performed by any member of staff of the Ombudsman authorised by the Ombudsman for that purpose.

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(2) Any function of the Ombudsman may be performed by any other person authorised by the Ombudsman for that purpose if#??

- (a) that other person is suitably qualified to do so, and
- (b) there are special circumstances which make it proper to do so.

**Modifications etc. (not altering text)**

- C1** Sch. 1 para. 14 applied (with modifications) by Local Government Act (Northern Ireland) 2014 (c. 8), s. 63(1)(8)(a) (as substituted (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, **Sch. 7 para. 5** (with ss. 23, 50(3), Sch. 2 para. 9))
- C2** Sch. 1 para. 14 applied by Local Government Act (Northern Ireland) 2014 (c. 8), s. 63(8)(a) (as substituted (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, **Sch. 7 para. 5** (with ss. 23, 50(3), Sch. 2 para. 9))

*Staff*

**15.—**(1) The Ombudsman may—

- (a) appoint staff,
- (b) determine the terms and conditions of their employment, and
- (c) make arrangements in respect of salary and pensions for them.

(2) In exercising powers under sub-paragraph (1), the Ombudsman must have regard to the desirability of keeping the terms and conditions of employment, salary and pensions broadly in line with those applying to persons employed in the civil service of Northern Ireland.

(3) No member of staff of the Ombudsman is to be regarded—

- (a) as the servant or agent of the Crown, or
- (b) as enjoying any status, immunity or privilege of the Crown.

(4) But each member of staff is a Crown servant for the purposes of the Official Secrets Act 1989.

(5) Scheme regulations for a scheme under section 1 of the Public Services Pensions Act (Northern Ireland) 2014, which is a scheme made by virtue of section 1(2)(a) of that Act, have effect with respect to the pension and other benefits to be paid in respect of persons who have been staff of the Ombudsman, as if they were employed in the civil service of Northern Ireland.

*Advisers*

**16.—**(1) The Ombudsman may obtain advice from any person who, in the opinion of the Ombudsman, is qualified to give it, to assist in the discharge of the Ombudsman's functions.

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(2) The Ombudsman may pay to any person from whom advice is obtained under sub-paragraph (1) such fees or allowances as the Ombudsman may determine.

(3) In exercising powers under this paragraph, the Ombudsman must have regard to the desirability of keeping the fees and allowances broadly in line with those paid by the civil service of Northern Ireland.

**Modifications etc. (not altering text)**

- C3** Sch. 1 para. 16 applied (with modifications) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), s. 63\(1\)\(8\)\(b\)](#) (as substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 7 para. 5](#) (with ss. 23, 50(3), Sch. 2 para. 9))
- C4** Sch. 1 para. 16 applied by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), s. 63\(8\)\(b\)](#) (as substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 7 para. 5](#) (with ss. 23, 50(3), Sch. 2 para. 9))

*Expenses*

**17** The expenses of the office of the Ombudsman must be defrayed out of money appropriated by Act of the Assembly, but this is subject to—

- (a) paragraph 18, and
- (b) section 64 of the [Local Government Act \(Northern Ireland\) 2014](#) (expenditure of Ombudsman under that Act).

*Budget estimates*

**18.**—(1) The Ombudsman must, for each financial year other than the first, prepare an estimate of the use of resources (within the meaning of the [Government Resources and Accounts Act \(Northern Ireland\) 2001](#)) by the office of the Ombudsman.

(2) That estimate must be submitted to the committee established under section 66 of the [Northern Ireland Act 1998](#).

(3) In considering that estimate, that committee must have regard to the advice of the Department of Finance and Personnel.

(4) That estimate must, subject to any modifications agreed between that committee and the Ombudsman, be laid before the Assembly by that committee.

**Modifications etc. (not altering text)**

- C5** Sch. 1 para. 18 applied (with modifications) by [Local Government Act \(Northern Ireland\) 2014 \(c. 8\), s. 63\(1\)\(8\)\(c\)](#) (as substituted (1.4.2016) by [Public Services Ombudsman Act \(Northern Ireland\) 2016 \(c. 4\), s. 64, Sch. 7 para. 5](#) (with ss. 23, 50(3), Sch. 2 para. 9))

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### *Accounts and audit*

**19.—**(1) The Ombudsman must publish—

- (a) the certified accounts of the office of the Ombudsman, and
- (b) the report of the Comptroller and Auditor General on those accounts.

(2) In this paragraph “certified accounts” and “report” mean the accounts and report laid by the Department of Finance and Personnel before the Assembly in accordance with section 10 of the Government Resources and Accounts Act (Northern Ireland) 2001.

### *Meaning of ‘financial year’*

**20** For the purposes of this Schedule—

- (a) a financial year is a period of 12 months ending on the 31st March, but
- (b) the first financial year is the period beginning with the day on which the Ombudsman is appointed and ending on 31 March 2017.

## SCHEDULE 2

Section 4.

### TRANSFER OF ASSETS, LIABILITIES, STAFF, AND OTHER TRANSITIONAL AND SAVINGS ARRANGEMENTS

#### *Transfer of assets and liabilities*

**1.—**(1) All property, rights and liabilities to which each existing office is entitled or subject immediately before the transfer day are on that day transferred to, and by virtue of this paragraph vest in, the Ombudsman.

(2) Sub-paragraph (1) has effect in relation to property, rights or liabilities to which it applies in spite of any provision (of whatever nature) which would prevent or restrict the transfer of the property, rights or liabilities otherwise than by that sub-paragraph.

(3) But sub-paragraph (1) does not apply to property, rights or liabilities under a contract of employment.

**2** Anything (including legal proceedings) which is in the process of being done by or in relation to an existing office immediately before the transfer day and which relates to—

- (a) any function of that existing office, or
- (b) any property, rights or liabilities of that existing office transferred to the Ombudsman under paragraph 1,



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may, on and after the transfer day, be continued by or in relation to the Ombudsman.

**3** Anything done by an existing office for the purpose of, or in connection with—

- (a) any function of that existing office, or
- (b) any property, rights or liabilities of that existing office transferred to the Ombudsman under paragraph 1,

and which is in effect immediately before the transfer day is to have effect on and after the transfer day as if done by the Ombudsman.

**4** On and after the transfer day, the Ombudsman is to be substituted for each existing office in any instruments, contracts or legal proceedings which relate to—

- (a) any function of that existing office, or
- (b) any property, rights or liabilities of that existing office transferred to the Ombudsman under paragraph 1,

and which are made or commenced before the transfer day.

#### *Transfer of staff*

**5.—(1)** This paragraph applies to persons who immediately before the transfer day are employed by the existing offices.

(2) The Department must make arrangements providing for the transfer as from the transfer day of persons to whom this paragraph applies to the employment of the Ombudsman.

(3) The Transfer of Undertakings (Protection of Employment) Regulations 2006 apply to a transfer effected by the arrangements whether or not the transfer would, apart from this paragraph, be a relevant transfer for the purposes of those regulations.

(4) The arrangements must—

- (a) identify transferring employees,
- (b) include provision securing pension protection for such employees,
- (c) include provision for procedures designed to resolve any grievances of such employees arising in relation to matters dealt with by the arrangements, and
- (d) include provision for the payment of compensation by the Department to any such employee who suffers loss or detriment in consequence of that transfer.

(5) Procedures under sub-paragraph (4)(c) must involve consideration of grievances by a person other than—

- (a) the holders of the existing offices,
- (b) a member of staff of the existing offices, or

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- (c) a member of the civil service of Northern Ireland.
- (6) The arrangements may include supplementary, incidental, transitional and consequential provision.
- (7) Before making the arrangements the Department must consult—
  - (a) the holders of the existing offices, and
  - (b) the transferring employees.
- (8) For the purposes of this paragraph—
  - (a) “pension protection” is secured for a transferring employee if after the change of employer effected by the arrangements the employee has rights to acquire pension benefits and those rights are the same as or (taken as a whole) no less favourable than those that the transferring employee had as an employee of the existing offices, and
  - (b) “transferring employee” means an employee of the existing offices who is transferred to the employment of the Ombudsman by the arrangements.

#### *Transfer of seconded staff*

6 Any person seconded to an existing office under an arrangement made by the existing office is to be treated on and after the transfer day as seconded to the office of the Ombudsman under a similar arrangement.

#### *Accounts and reports: transitional arrangements*

- 7.—(1) The Ombudsman must make arrangements for statement of accounts to be prepared in relation to the existing offices for such period ending immediately before the transfer day as the Department may determine.
- (2) The statement of accounts must—
    - (a) be in such form, and
    - (b) contain such information,
 as the Department may determine.
  - (3) The Department must send a copy of the statement of accounts to the Comptroller and Auditor General for Northern Ireland.
  - (4) The Comptroller and Auditor General must—
    - (a) examine and report on any statement of accounts received from the Department under sub-paragraph (3), and
    - (b) send a copy of any such report to the Department.
  - (5) The Department must lay a copy of the statement of accounts and the Comptroller and Auditor General's report before the Assembly.

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(6) The Ombudsman must make arrangements for a general report on the performance of the functions of the existing offices for such period ending immediately before the transfer day as the Ombudsman may determine.

(7) The Ombudsman must lay this general report before the Assembly.

#### *Pension of holders of existing offices*

8.—(1) The repeal by this Act of the Commissioner for Complaints (Northern Ireland) Order 1996 and the Ombudsman (Northern Ireland) Order 1996 does not affect any entitlement to pension and other benefits payable to or in respect of persons who have been holders of the existing offices.

(2) Accordingly, Article 4(4) to (6) of, and Schedule 1 to, the Commissioner for Complaints (Northern Ireland) Order 1996, or, as the case may be, Article 5(4) to (6) of, and Schedule 1 to, the Ombudsman (Northern Ireland) Order 1996 continue to have effect with respect to such persons.

#### *Complaints made to an existing office before the transfer day*

9.—(1) Sub-paragraph (2) applies where a complaint—

- (a) has been made or referred to an existing office before the transfer day, and
- (b) has not been determined by that office before that day.

(2) On and after the transfer day, the relevant existing statutory provision continues to apply in relation to the complaint notwithstanding the other provisions of this Act.

(3) As applied by sub-paragraph (2), the relevant existing statutory provision has effect as if for references to the existing office in relation to which that provision applies there were substituted references to the Ombudsman.

(4) In this paragraph—

“the relevant existing office” means the existing office to which the complaint was made or referred,

“the relevant existing statutory provision” means—

- (a) the Ombudsman (Northern Ireland) Order 1996, where the relevant existing office is the Assembly Ombudsman for Northern Ireland,
- (b) the Commissioner for Complaints (Northern Ireland) Order 1996, where the relevant existing office is the Northern Ireland Commissioner for Complaints,
- (c) the Commissioner for Complaints (Northern Ireland) Order 1996 and Part 9 of the Local Government Act (Northern Ireland) 2014 where the relevant existing office is the Northern Ireland Commissioner for Complaints and the complaint is in relation to Part 9.

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*Action taken but complaint not made to existing office before the transfer day*

**10.**—(1) Sub-paragraph (2) applies if—

- (a) action was taken by a listed authority before the transfer day, and
- (b) a complaint could have been, but was not made or referred to an existing office before the transfer day.

(2) On and after the transfer day, the complaint may be made or referred under this Act, and the provisions of this Act apply for the purposes of making, referring, investigating and dealing with that complaint, save that if the complaint is made or referred within the time period required under—

- (a) the Ombudsman (Northern Ireland) Order 1996, where the complaint could have been made or referred to the Assembly Ombudsman for Northern Ireland,
- (b) the Commissioner for Complaints (Northern Ireland) Order 1996, where the complaint could have been made or referred to the Northern Ireland Commissioner for Complaints,

the complaint will be deemed to comply with the time period required under this Act.

*Eligibility of holders of existing offices to be appointed as Ombudsman*

**11** A person who has been appointed to any existing office is not disqualified from being appointed as the Ombudsman or acting Ombudsman by virtue of that fact.

*Commissioner for Public Appointments*

**12.**—(1) The repeal by this Act of the Commissioner for Complaints (Northern Ireland) Order 1996 does not affect the definition of “public appointment” in the Commissioner for Public Appointments (Northern Ireland) Order 1995.

(2) Sub-paragraph (1) does not affect the exercise of prerogative powers in respect of the Commissioner for Public Appointments referred to in section 23(3) of the Northern Ireland Act 1998.

*Interpretation*

**13** In this Schedule—

“the transfer day” means 1 April 2016, and

“the Department” means the Department of Finance and Personnel.

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## SCHEDULE 3

Section 12.

### LISTED AUTHORITIES

#### Commencement Information

- II** Sch. 3 wholly in operation at 1.4.17; Sch. 3 in operation for specified purposes at 1.4.2016 see s. 64(1); Sch. 3 in operation for specified purposes at 1.10.2016 see s. 64(3)(c); Sch. 3 in operation for specified purposes at 1.4.2017 see s. 64(4)(a)

#### *Northern Ireland Assembly*

Assembly Commission

The Independent Financial Review Panel

#### *Northern Ireland Departments*

A Northern Ireland department

#### *Local Government*

A district council

The Local Government Staff Commission for Northern Ireland

The Northern Ireland Local Government Officers' Superannuation Committee

#### *Education and Training*

The board of governors of a grant-aided school

An industrial training board

An institution of further education

The General Teaching Council for Northern Ireland

The Northern Ireland Council for Postgraduate Medical and Dental Education

The Northern Ireland Council for the Curriculum, Examinations and Assessment

The Education Authority

University of Ulster

The Queen's University of Belfast

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The Youth Council for Northern Ireland  
The Council for Catholic Maintained Schools

*Policing, Criminal Justice and Law*

A policing and community safety partnership or a district policing and community safety partnership  
The Northern Ireland Policing Board  
The Chief Inspector of Criminal Justice in Northern Ireland  
The Commission for Victims and Survivors for Northern Ireland  
The Northern Ireland Police Fund  
The Probation Board for Northern Ireland  
The Royal Ulster Constabulary George Cross Foundation  
The Northern Ireland Law Commission  
The Police Rehabilitation and Retraining Trust

*Arts and Leisure*

The Arts Council of Northern Ireland  
The Board of Trustees of the National Museums and Galleries of Northern Ireland  
The Northern Ireland Library Authority  
The Northern Ireland Museums Council  
The Northern Ireland Tourist Board  
The Sports Council for Northern Ireland

*Health and Social Care*

A health and social care trust  
A special health and social care agency  
The Northern Ireland Practice and Education Council for Nursing and Midwifery  
The Health and Social Care Regulation and Quality Improvement Authority  
The Northern Ireland Social Care Council  
The Patient and Client Council  
The Regional Agency for Public Health and Social Well-being

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The Regional Health and Social Care Board  
The Regional Business Services Organisation  
A general health care provider  
An independent provider of health and social care

#### *Investment and Economic Development*

Invest Northern Ireland  
The company for the time being designated under Article 5 of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003  
A development corporation established under Part III of the Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003

#### *Industrial Relations*

Office of the Certification Officer for Northern Ireland  
The Labour Relations Agency

#### *Harbours*

The Northern Ireland Fishery Harbour Authority  
A harbour authority within the meaning of the Harbours Act (Northern Ireland) 1970

#### *Housing*

A registered housing association within the meaning of Article 3 of the Housing (Northern Ireland) Order 1992  
The Northern Ireland Housing Executive

#### *Children and Young People*

The Safeguarding Board for Northern Ireland  
The Office of the Commissioner for Children and Young People for Northern Ireland

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### *Charity and Voluntary Sector*

Regulator of Community Interest Companies  
Appeal Officer for Community Interest Companies  
The Charity Commission for Northern Ireland  
The Northern Ireland Community Relations Council

### *Miscellaneous*

The Agri-Food and Biosciences Institute  
Civil Service Commissioners for Northern Ireland  
The Comptroller and Auditor General  
The Equality Commission for Northern Ireland  
The General Consumer Council for Northern Ireland  
The Health and Safety Executive for Northern Ireland  
The Livestock and Meat Commission for Northern Ireland  
The Northern Ireland Audit Office  
The Northern Ireland Authority for Utility Regulation  
The Northern Ireland Fire and Rescue Service Board  
The Office of the Commissioner for Older People for Northern Ireland  
Ulster Sheltered Employment Limited  
A new town commission established under the New Towns Acts (Northern Ireland) 1965 to 1968  
An implementation body to which the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 applies

#### Notes:

(1) An implementation body is a listed authority only to the extent that it exercises functions in or as regards Northern Ireland.

(2) In relation to any function exercisable by a listed authority for the time being listed in this Schedule which was previously exercisable on behalf of the Crown by a body not so listed, the reference to the listed authority so listed includes a reference to the other body.



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## SCHEDULE 4

Section 19.

### TRIBUNALS REFERRED TO IN SECTION 19

The Lands Tribunal for Northern Ireland established under section 1 of the Lands Tribunal and Compensation Act (Northern Ireland) 1964.

A tribunal constituted under Schedule 11 of the Health and Personal Social Services (Northern Ireland) Order 1972.

The Northern Ireland Valuation Tribunal established under Article 36A of the Rates (Northern Ireland) Order 1977.

The Water Appeals Commission constituted under Article 292 of the Water and Sewerage Services (Northern Ireland) Order 2006.

Rent assessment committees constituted under Schedule 1 to the Private Tenancies (Northern Ireland) Order 2006.

Industrial tribunals established by regulations made under Article 3 of the Industrial Tribunals (Northern Ireland) Order 1996.

The Mental Health Review Tribunal for Northern Ireland constituted under Article 70 of the Mental Health (Northern Ireland) Order 1986.

The Fair Employment Tribunal for Northern Ireland established under regulations under Article 81 of the Fair Employment and Treatment (Northern Ireland) Order 1998.

The Planning Appeals Commission constituted under section 203 of the Planning Act (Northern Ireland) 2011.

The Industrial Court constituted under Article 91 of the Industrial Relations (Northern Ireland) Order 1992.

Registered Homes Tribunals constituted under Part V of the Registered Homes (Northern Ireland) Order 1992.

Appeal tribunals constituted under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998.

The tribunal established to adjudicate on claims under the scheme for compensation for loss of employment through civil unrest.

Adjudicators appointed under Article 7(1)(b) of the Criminal Injuries Compensation (Northern Ireland) Order 2002.

Adjudicators appointed under Article 29(1) of the Traffic Management (Northern Ireland) Order 2005.

The Charity Tribunal for Northern Ireland established under section 12 of the Charities Act (Northern Ireland) 2008.

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## SCHEDULE 5

Section 22.

## OTHER EXCLUDED MATTERS

**1** Action which has been or is the subject of—

- (a) an inquiry which is referred to in section 23 of the Interpretation Act (Northern Ireland) 1954 (inquiries and investigations),
- (b) an inquiry under the Inquiries Act 2005, or
- (c) an inquiry under the Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013.

**2** Action taken by the Regional Health and Social Care Board in the exercise of its functions under regulations made under Articles 61, 62 or 63 of the Health and Personal Social Services (Northern Ireland) Order 1972 by virtue of Article 10 of the Health and Medicines (Northern Ireland) Order 1988 (investigations of matters relating to services).

**3** The commencement or conduct of any civil or criminal proceedings before a court of law in the United Kingdom, or of proceedings before any international court or tribunal.

**4.—(1)** Action which is or may be investigated by the Attorney General with a view to the institution of proceedings under section 31 or 46(9) of the Local Government Act (Northern Ireland) 1972.

(2) But the Ombudsman may investigate that action, notwithstanding any limitation of time imposed by section 26, if conditions 1 and 2 are satisfied.

(3) Condition 1 is that—

- (a) the Attorney General has decided not to proceed with an investigation,
- (b) the Attorney General has decided not to institute proceedings, or
- (c) there has been a final determination of those proceedings.

(4) Condition 2 is that—

- (a) a person aggrieved complains that the action resulted in the person aggrieved sustaining injustice in consequence of maladministration and that such injustice has not been remedied, and
- (b) the Ombudsman is satisfied that there are reasonable grounds for that complaint.

**5** Action taken in matters certified by the First Minister and deputy First Minister acting jointly, or by a Northern Ireland Minister, to affect relations or dealings between the Government of Northern Ireland and any other Government.

**6** Action taken by a member of the administrative staff of any court or tribunal who was appointed or assigned to serve as a member of that staff by the Department of Justice, so far as the action is taken at the direction, or on the authority (whether

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express or implied), of any person acting in a judicial capacity or in the capacity of a member of the tribunal.

7 Action taken by any member of the administrative staff of a tribunal listed in Schedule 4, so far as that action is taken at the direction, or on the authority (whether express or implied), of any person acting in the capacity of a member of the tribunal.

## SCHEDULE 6

Section 58.

### AMENDMENTS CONSEQUENT UPON OMBUDSMAN BEING NORTHERN IRELAND JUDICIAL APPOINTMENTS OMBUDSMAN

1 The Justice (Northern Ireland) Act 2002 is amended as follows.

2 In section 88 (interpretation) insert at the appropriate place in alphabetical order—

““the Northern Ireland Public Services Ombudsman” has the meaning given by the Public Services Ombudsman Act (Northern Ireland) 2016,”.

3 Schedule 3A (The Northern Ireland Judicial Appointments Ombudsman) is amended as follows.

4 For paragraph 1 substitute—

*“Circumstances where Ombudsman ineligible to exercise specified functions*

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—

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- (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;
  - (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—

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- (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.
- (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;

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(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.”.

**5** Omit the following—

- (a) paragraphs 3, 4 and 5 (term of office etc. of Ombudsman),
- (b) paragraph 6 (salary, allowances and expenses of Judicial Appointments Ombudsman, and
- (c) paragraph 7 (acting Judicial Appointments Ombudsman).

**6** For paragraph 10(3) (approval of arrangements for assistance) substitute—

“(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.”.

**7** Omit paragraph 11 (arrangements by the Department of Justice).

**8** In paragraph 12(1)(a) (delegation of functions) omit “or 11”.

**9** Omit paragraph 13 (financial provisions and directions).

**10** Omit paragraph 14 (code of conduct).

**11** In paragraph 15 (reports)—

- (a) in sub-paragraph (1) for “provide to the Department of Justice” substitute “lay before the Assembly”,
- (b) omit sub-paragraphs (2) to (4),
- (c) in sub-paragraph (5) for “under sub-paragraph (4)” substitute “before the Assembly”, and
- (d) in sub-paragraph (6) for “(4)” substitute “(1)”.

## SCHEDULE 7

Section 62.

### AMENDMENTS TO PART 9 OF THE LOCAL GOVERNMENT ACT (NORTHERN IRELAND) 2014

**1** Part 9 of the Local Government Act (Northern Ireland) 2014 (conduct of councillors) is amended as follows.

**2** After section 56 insert—

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## *“Adjudication hearings*

### **56A Adjudication hearings**

(1) Where the Commissioner proposes to make an adjudication under section 55(5)(c), the Commissioner may first hold an adjudication hearing.

(2) The adjudication hearing must be held in public save to the extent that the Commissioner determines that this would not be in the public interest.

(3) Subject to—

(a) subsection (2), and

(b) the provisions of the 2016 Act which apply to adjudication hearings by virtue of section 63,

the procedure for an adjudication hearing is to be such as the Commissioner considers appropriate in the circumstances of the case.”.

**3** In section 59 (decision following report) after subsection (7) insert—

“(7A) Where the Commissioner censures a person under subsection (4), the Commissioner must give notice to the clerk of the council concerned—

(a) stating that the person has failed to comply with the code of conduct;

(b) specifying the details of that failure; and

(c) stating that the person is censured in the terms the Commissioner has decided.”.

**4** In section 59(10)—

(a) in subsection (a) omit “and”,

(b) in subsection (b), at the end insert—

“and

(c) may be published elsewhere.”.

**5** For section 63 (extension of 1996 Order) substitute—

### **“63 Extension of 2016 Act**

(1) The provisions of the 2016 Act set out below have effect in relation to this Part as follows, and as if the references to the Ombudsman in the 2016 Act were references to the Commissioner.

(2) In section 30 (investigation procedure) of the 2016 Act, subsections (5) and (7)(a) apply in relation to an investigation under section 55 as they apply in relation to an investigation under the 2016 Act.

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(3) Section31 (information, documents, evidence and facilities) of the 2016 Act, except for subsections (2)(a) and (4), applies in relation to an investigation under section 55—

- (a) as it applies in relation to an investigation under the 2016 Act,
- (b) as if the references to the listed authority being investigated were references to the person being investigated under this Part, and
- (c) as if in section 31(5) the references to section 32(1) and (2) had no effect.

(4) Section33 (obstruction and contempt) of the 2016 Act, except for subsection (3)—

- (a) applies in relation to the functions of the Commissioner under this Part as it applies in relation to the functions of the Ombudsman under the 2016 Act, and
- (b) applies in relation to an investigation under section 55 as it applies in relation to an investigation under the 2016 Act.

(5) In section46 (reports to the Assembly) of the 2016 Act, subsections (1) and (4) apply in relation to functions of the Commissioner under this Part as they apply in relation to functions of the Ombudsman under the 2016 Act.

(6) Section48 (privilege for certain publications) of the 2016 Act applies in relation to reports, investigations, adjudications or notices under this Part as it applies in relation to reports and investigations under the 2016 Act.

(7) Section 49 (disclosure of information) of the 2016 Act –

- (a) applies in relation to information obtained by the Commissioner in accordance with this Part as it applies in relation to information obtained by the Ombudsman in accordance with the 2016 Act,
- (b) applies as if the references to section 10 (alternative resolution of complaints) of the 2016 Act were references to section 55(2) of this Act,
- (c) applies as if the reference in section 49(2)(e) to section 51 (consultation and co-operation with other ombudsmen) only applied in respect of the persons listed in section 51(4)(i) and (j) (local government auditor and Comptroller and Auditor General), and
- (d) applies as if the references to section 54 and 55 (court proceedings) were omitted.

(8) In Schedule1 (The Northern Ireland Public Services Ombudsman) of the 2016 Act—

- (a) paragraph 14 (delegation of functions) applies in relation to functions of the Commissioner under this Part as it applies in relation to functions of the Ombudsman under the 2016 Act,



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(b) paragraph 16 (advisers) applies in relation to the functions of the Commissioner under this Part as it applies in relation to the functions of the Ombudsman under the 2016 Act,

(c) in paragraph 18 (budget estimates) references to resources of the Ombudsman include resources used under this Part.

(9) The following provisions of the 2016 Act apply in relation to an adjudication hearing under section 56A as they apply in relation to an investigation under the 2016 Act—

(a) section 30(7)(b) of the 2016 Act (legal representation),

(b) section 30(8) of the 2016 Act (payments to persons giving evidence),

(c) section 31(3) of the 2016 Act (power to compel witnesses and require production of documents), and

(d) section 33 of the 2016 Act (obstruction and contempt) except for subsection (3).”.

**6** In section 65(1)—

(a) for the entry relating to the 1996 Order substitute—

““the 2016 Act” means the Public Services Ombudsman Act (Northern Ireland) 2016;”

(b) for the entry relating to the Commissioner substitute—

““the Commissioner” means the Ombudsman (within the meaning of the 2016 Act) who is to be known, for the purposes of exercising functions under this Part, as the Northern Ireland Local Government Commissioner for Standards;”.

## SCHEDULE 8

Section 63.

### OTHER MINOR AND CONSEQUENTIAL AMENDMENTS

#### *Northern Ireland Assembly Disqualification Act 1975 (c. 25)*

**1** In Schedule 1, Part 3, insert in the appropriate place in alphabetical order “ the Northern Ireland Public Services Ombudsman ”.

#### *Mental Health (Northern Ireland) Order 1986 (NI 4)*

**2** In Article 16(3)(g) for “, the Northern Ireland Parliamentary Commissioner for Administration or the Northern Ireland Commissioner for Complaints” substitute “ or the Northern Ireland Public Services Ombudsman ”.

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*Social Security Administration (Northern Ireland) Act 1992 (c. 8)*

**3** In section 117(8)—

(a) for paragraphs (b) and (c) substitute—

“(b) the Northern Ireland Public Services Ombudsman;”,

(b) in paragraph (i) after “above” in the first place it occurs, insert “, of the Northern Ireland Public Services Ombudsman, ”.

*Juries (Northern Ireland) Order 1996 (NI 6)*

**4** In Schedule 3, for the entry relating to the Assembly Ombudsman for Northern Ireland and the Northern Ireland Commissioner for Complaints, substitute— “ The Northern Ireland Public Services Ombudsman. ”

*Northern Ireland Act 1998 (c. 47)*

**5** In section 75(3) for paragraphs (b) and (c) substitute—

“(b) any authority (other than the Equality Commission, the board of governors of a grant-aided school, the Comptroller and Auditor General, a general health care provider or an independent provider of health and social care) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities);”.

**6** In section 76(7) for paragraphs (c) and (d) substitute—

“(c) any authority (other than a Northern Ireland department, the board of governors of a grant-aided school, the Comptroller and Auditor General, a general health care provider or an independent provider of health and social care) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities);”.

**7** In section 77(4) for paragraphs (b), (c), (d) and (e) substitute—

“(b) any authority (other than a Northern Ireland department, the board of governors of a grant-aided school, the Comptroller and Auditor General, a general health care provider or an independent provider of health and social care) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities).”.

**8** In section 78(2) for paragraphs (b) and (c) substitute—

“(b) section 21(1)(b) of the Public Services Ombudsman Act (Northern Ireland) 2016.”.

*Commissioner for Children and Young People  
(Northern Ireland) Order 2003 (NI 11)*

**9** In Article 4(1) for sub-paragraphs (a) and (b) substitute—

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“(a) any authority (other than the Office of the Commissioner or the Comptroller and Auditor General) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities).”.

**10** In Schedule 1, for paragraphs 8 and 9 substitute—

“**8** The Northern Ireland Public Services Ombudsman.”.

*Commissioner for Older People Act (Northern Ireland) 2011 (c. 1)*

**11** In section 7(6), for “the Northern Ireland Commissioner for Complaints, the Assembly Ombudsman for Northern Ireland” substitute “ the Northern Ireland Public Services Ombudsman ”.

**12** In section 26(1) for paragraph (a) and (b) substitute—

“(a) any authority (other than the Office of the Commissioner, the board of governors of a grant-aided school or the Comptroller and Auditor General) listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (listed authorities).”.

## SCHEDULE 9

Section 65.

### REPEALS

#### Commencement Information

**I2** Sch. 9 wholly in operation at 1.4.17; Sch. 9 in operation for specified purposes at 1.4.2016 see s. 64(1); Sch. 9 in operation for specified purposes at 1.10.2016 see s. 64(3)(d); Sch. 9 in operation for specified purposes at 1.4.2017 see s. 64(4)(b)

Short Title	Extent of Repeal
The Northern Ireland Constitution Act 1973 (c. 36)	Section 36(1)(a) and (b).
The Salaries (Comptroller and Auditor General and Others) (Northern Ireland) Order 1973 (NI 14)	The whole Order.
The Northern Ireland Assembly Disqualification Act 1975 (c. 25)	In Schedule 1, in Part 3, the entries relating to the Northern Ireland Commissioner for Complaints and the Assembly Ombudsman for Northern Ireland.

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The Social Security Administration (Northern Ireland) Act 1992 (c. 8)	In section 117(8)(i), the words “(b), (c),”.
The Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7)	The whole Order.
The Ombudsman (Northern Ireland) Order 1996 (NI 8)	The whole Order.
The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)	In Schedule 1, paragraph 13.
The Commissioner for Complaints (Amendment) (Northern Ireland) Order 1997 (NI 14)	The whole Order.
The Museums and Galleries (Northern Ireland) Order 1998 (NI 2)	In Schedule 3, the entry relating to the Commissioner for Complaints (Northern Ireland) Order 1996.
The Social Security (Northern Ireland) Order 1998 (NI 10)	In Schedule 6, paragraph 115.
The Northern Ireland Act 1998 (c. 47)	In section 75(3), paragraphs (ce) and (cf), and in paragraph (cc) the words “the Northern Ireland Policing Board,”.  In section 76(7), paragraphs (f), (fa) and (fb).  In Schedule 8, paragraph 11.  In Schedule 13, paragraphs 17 and 18.
The Health and Safety at Work (Amendment) (Northern Ireland) Order 1998 (NI 18)	In Schedule 1, paragraph 26.
The Fair Employment and Treatment (Northern Ireland) Order 1998 (NI 21)	In Schedule 3, the entry relating to the Ombudsman (Northern Ireland) Order 1996.
The North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 (1999 No. 859)	In Schedule 2, paragraph 5.
The Departments (Northern Ireland) Order 1999 (NI 1)	In Schedule 2, the entry relating to the Ombudsman (Northern Ireland) Order 1996.

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The Health and Personal Social Services Act (Northern Ireland) 2001 (c. 3)	Section 50. In Schedule 1, paragraph 17.
The Industrial Development Act (Northern Ireland) 2002 (c. 1)	In Schedule 1, paragraph 19.
The Health and Personal Social Services Act (Northern Ireland) 2002 (c. 9)	In the Schedule, paragraph 17.
The Justice (Northern Ireland) Act 2002 (c. 26)	In Schedule 3A, paragraphs 3 to 7, 11, in paragraph 12(1)(a) the words “or 11”, paragraphs 13 and 14 and paragraph 15(4). In Schedule 12, paragraphs 63 and 64.
The Strategic Investment and Regeneration of Sites (Northern Ireland) Order 2003 (NI 1)	Article 5(7). In Schedule 1, paragraph 21.
The Housing (Northern Ireland) Order 2003 (NI 2)	Article 146.
The Health and Personal Social Services (Quality, Improvement and Regulation) (Northern Ireland) Order 2003 (NI 9)	In Schedule 4, the entry relating to the Commissioner for Complaints (Northern Ireland) Order 1996.
The Commissioner for Children and Young People (Northern Ireland) Order 2003 (NI 11)	In Schedule 1, paragraphs 1, 2, 5, 7, 14 to 17 and in paragraph 12 the words “The Northern Ireland Policing Board and”. In Schedule 2, paragraph 14.
The Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12)	Section 5(5).
The Agriculture (Northern Ireland) Order 2004 (NI 23)	In Schedule 1, paragraph 20.
The Inquiries Act 2005 (c. 12)	In Schedule 2, paragraph 37.
The Fire and Rescue Services (Northern Ireland) Order 2006 (NI 9)	In Schedule 1, paragraph 18.
The Private Tenancies (Northern Ireland) Order 2006 (NI 10)	In Schedule 4, paragraph 12.

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The Victims and Survivors (Northern Ireland) Order 2006 (NI 17)	In the Schedule, paragraph 18.
The Water and Sewerage Services (Northern Ireland) Order 2006 (NI 21)	In Schedule 12, paragraph 37.
The Libraries Act (Northern Ireland) 2008 (c. 8)	In Schedule 3, paragraph 4.
The Charities Act (Northern Ireland) 2008 (c. 12)	In Schedule 1, paragraph 13.
The Health and Social Care (Reform) Act (Northern Ireland) 2009 (c. 1)	In Schedule 6, paragraph 15.
The Commissioner for Older People Act (Northern Ireland) 2011 (c. 1)	In Schedule 1, paragraph 14. In Schedule 3, paragraphs 1, 2 and 4.
The Safeguarding Board Act (Northern Ireland) 2011 (c. 7)	Section 13(2).
The Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 (c. 17)	In Schedule 5, paragraph 2.
The Justice Act (Northern Ireland) 2011 (c. 24)	In Schedule 7, paragraph 4.
The Inquiry into Historical Institutional Abuse Act (Northern Ireland) 2013 (c. 2)	Section 23(1).
The Health and Social Care (Amendment) Act (Northern Ireland) 2014 (c. 5)	In the Schedule, paragraph 2.
The Education Act (Northern Ireland) 2014 (c. 12)	In Schedule 1, paragraph 18.
The Ombudsman and Commissioner for Complaints (Amendment) Act (Northern Ireland) 2015 (c. 6)	The whole Act.

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**Status:**

Point in time view as at 01/10/2016.

**Changes to legislation:**

Public Services Ombudsman Act (Northern Ireland) 2016 is up to date with all changes known to be in force on or before 06 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.