

# JUSTICE (NORTHERN IRELAND) ACT 2002

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## EXPLANATORY NOTES

### COMMENTARY

#### Part 1: the Judiciary

#### Appointment and Removal

##### *Section 5: Appointment to listed judicial offices*

18. *Subsection (1)* gives effect to Schedule 3 which transfers to the First Minister and deputy First Minister the power to make appointments, or recommendations for appointment, to offices listed in Schedule 1. *Subsection (2)* provides that only a person selected by the Commission can be appointed, or recommended for appointment, to an office listed in Schedule 1. The section also sets out the procedure to be adopted by the Commission and the First Minister and deputy First Minister for filling those offices.
19. Once the Commission is informed by the First Minister and deputy First Minister of a vacancy it must select a person to be appointed or recommended for appointment, solely on the basis of merit (*subsection (9)*). The Commission is required (*subsection (4)*) to inform the First Minister and deputy First Minister of the person selected and provide them with a report explaining why that candidate was selected. If the First Minister and deputy First Minister do not (within a reasonable time after receiving the report) appoint, or recommend for appointment, the person selected by the Commission they must require the Commission to reconsider its decision once (*subsection (5)*), giving their reasons for doing so. The Commission can either reaffirm its selection or select a different person, reporting the reason for its decision to the First Minister and deputy First Minister (*subsection (6)*). The First Minister and deputy First Minister must appoint, or recommend for appointment, the person selected by the Commission after its reconsideration (*subsection (7)*). The Commission must, so far as it is practicable to do so, secure a range of persons reflective of the community in Northern Ireland is available for consideration by the Commission whenever it is required to select a person to be appointed, or recommended for appointment, to a listed judicial office (*subsection (8)*).