

JUSTICE (NORTHERN IRELAND) ACT 2004

EXPLANATORY NOTES

BACKGROUND

3. The purpose of the Act is to continue the process of change and improvement in the criminal justice system in Northern Ireland. This process of change stems from the Criminal Justice Review, a wide-ranging survey of the Northern Ireland criminal justice system published in March 2000. Other milestones in the change process include the [Justice \(Northern Ireland\) Act 2002 \(c.26\)](#), the Joint Declaration (published by the British and Irish Governments on 1 May 2003) and the updated Implementation Plan for the Criminal Justice Review, published on 18 June 2003 (ISBN 0-337-08614-1):
- The Justice (Northern Ireland) Act 2002 (“the 2002 Act”) made provision, among other things, for the creation of a new Public Prosecution Service for Northern Ireland, for judicial appointments processes after the devolution of criminal justice matters, for a new system of youth conferencing and for the establishment of a Chief Inspector of Criminal Justice.
 - The Government made a commitment in the Joint Declaration, published in May 2003, that there would be a second Justice Act for Northern Ireland. The Government committed to making provision on the following nine matters:
 - i. To establish a **Judicial Appointments Commission** (“the Commission”) prior to the devolution of responsibility for criminal justice matters to the Northern Ireland Assembly (the 2002 Act provided for the Commission to be established post-devolution);
 - ii. To provide that the **composition of the Commission** taken as a whole (i.e. including the judicial members) **is as far as possible reflective of the community** in Northern Ireland;
 - iii. To provide that a **key objective of the Commission** is to engage in a programme of action to secure a judiciary in Northern Ireland that is as reflective of Northern Ireland society as can be achieved consistently with the requirement of appointment on merit;
 - iv. To place the same **time limits on membership of the Commission by members of the judiciary**, as currently apply to the non-judicial members. That is, a judicial member may not be appointed for more than 5 years at a time; and the aggregate period for which a judicial member may serve as a member must not exceed 10 years;
 - v. To provide that (post-devolution) in respect of the **appointments of the Lord Chief Justice and Lords Justices of Appeal**, the First Minister and Deputy First Minister acting jointly will make recommendations to the Prime Minister, who in turn will recommend appointments to Her Majesty on that basis;

*These notes refer to the Justice (Northern Ireland) Act
2004 (c.4) which received Royal Assent on 13 May 2004*

- vi. To amend section 7(5) of the 2002 Act, which requires the **agreement of the Lord Chief Justice to removal or suspension** of a judge as a result of a recommendation of a Tribunal established under section 8 of the 2002 Act;
 - vii. To amend section 55 of the [Police Act 1998 \(c.32\)](#) to remove the current discretion, and place a **requirement on the Director of Public Prosecutions for Northern Ireland**, if considering a matter which indicates that a police officer may have committed a criminal offence or behaved in a manner which would justify disciplinary proceedings, **to refer the case to the Police Ombudsman for Northern Ireland;**
 - viii. To require the criminal justice agencies in Northern Ireland to have due regard to relevant **international human rights conventions and standards** in carrying out their functions; and
 - ix. To create an **offence of seeking to influence a prosecutor's prosecution decisions** without legitimate cause.
- The updated Implementation Plan, published in June 2003, sets out how the recommendations in the Criminal Justice Review are being implemented, with the aim of promoting “confidence among all parts of the community while delivering a fair and impartial system of justice”.
 - The Act makes provision for the 9 commitments above.