

JUSTICE (NORTHERN IRELAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY

Section 3: Duty of Commission to secure judiciary reflective of the community

10. The Criminal Justice Review recommended that the judiciary in Northern Ireland should be as reflective of Northern Ireland society as can be achieved consistent with the requirement of appointment on merit (recommendation 69, paragraph 6.85). Section 5(8) of the 2002 Act provides that, so far as is practicable, the Commission must secure that a range of persons reflective of the community in Northern Ireland is available for consideration each time the Commission selects or recommends a person for appointment to a listed judicial office. Section 5(9) of the 2002 Act states that the selection of a person to a listed judicial office must be based solely on merit.
11. **Section 3** amends section 5 of the 2002 Act by replacing subsections (8) and (9):
 - New section 5(8) repeats the provision that the selection or recommendation of a person to a listed judicial office must be made solely on the basis of merit.
 - New section 5(9) provides that the Commission must at all times engage in a programme of action as defined in section 5(10). The section is worded in this way to ensure that the Commission engages in an ongoing programme of action. This "rolling" programme of action will be modified and adapted by the Commission to cover changing circumstances. It will not be a one-off exercise but an ongoing exercise.
 - New section 5(10) provides that the programme of action must be designed to secure, as far as reasonably practicable, that appointments to listed judicial offices are such that those holding listed judicial office will be reflective of the community in Northern Ireland. This requires the Commission to take active steps to ensure that the judiciary is reflective of society, subject to the principle of appointment on merit. The Commission must also secure, as far as practicable, that a range of persons reflective of the community is available for consideration by the Commission each time the Commission makes a selection or recommendation for appointment to a listed judicial office.