

JUSTICE (NORTHERN IRELAND) ACT 2004

EXPLANATORY NOTES

COMMENTARY

Section 8: Guidance for criminal justice agencies on human rights standards

21. The Criminal Justice Review took account of basic human rights principles set out in international law (paragraph 3.11) and stressed their application to the criminal justice system (paragraph 3.6). The Joint Declaration of May 2003 stated the Government's intention to make future provision to promote a human rights culture in the criminal justice system in Northern Ireland (paragraph 24).
22. This section makes provision for the Attorney General for Northern Ireland to issue guidance to certain criminal justice organisations in Northern Ireland on how to carry out their functions in accordance with relevant international human rights standards. The organisations to which this section applies must have regard to any such guidance (*subsection (2)*). This section does not affect the operation of section 6 of the Human Rights Act 1998, which provides that it is unlawful for public authorities to act in a way which is incompatible with a Convention right (*subsection (2)*).
23. *Subsection (3)* requires the guidance to be published, to be laid before each House of Parliament and to be brought into operation by an order made by the Attorney General, subject to the negative resolution procedure, when it is issued, and each time it is revised. The organisations to which the guidance will apply are listed at *subsection (4)*. *Subsection (5)* gives the Attorney General for Northern Ireland the power to amend this list by order subject to the draft affirmative procedure.
24. Section 52 of the [Police \(Northern Ireland\) Act 2000 \(c.32\)](#) makes provision for a code of ethics for police officers. *Subsection (6)* amends section 52 to provide that the Chief Constable and Policing Board must have regard to the human rights guidance for the time being in operation when revising the code of ethics for police officers. This is to ensure that the police are guided by one document which is consistent with the human rights guidance and avoids the need for the police to refer to a variety of documents.
25. *Subsection (7)* states that the Director of Public Prosecutions must have regard to the human rights guidance currently in operation when drawing up or revising his code of practice for prosecutors under section 37 of the 2002 Act. This is to ensure that there is no conflict between the code of practice and the human rights guidance.
26. *Subsection (9)* requires the Attorney General for Northern Ireland to consult the Advocate General for Northern Ireland before issuing or revising the guidance, bringing the guidance into operation or amending the list of organisations to which it will apply. This provision will only take effect after the devolution of criminal justice matters, at which time the post of Advocate General for Northern Ireland will be created as provided for in section 27 of the 2002 Act.