STATUTORY RULES OF NORTHERN IRELAND

2010 No. 133

JUSTICE

The Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010

Made - - - -	*28th March 2010*
Coming into operation - - - -	*12th April 2010*

The Lord Chancellor makes the following Order in exercise of the powers conferred by section 78 of the Justice (Northern Ireland) Act 2002(**1**).

In accordance with section 90(4) of that Act, a draft of this instrument was laid before Parliament and approved by a resolution of each House of Parliament.

Citation and commencement

1. This Order may be cited as the Northern Ireland Court Service (Abolition and Transfer of Functions) Order (Northern Ireland) 2010 and shall come into operation on 12th April 2010.

Abolition of the Court Service

2. The Court Service is abolished.

Transfer of functions

3. The functions of the Court Service are transferred to the Department of Justice(**2**).

Consequential amendments

4. The amendments detailed in the Schedule shall have effect.

Transitional provision

5. This Order does not affect the validity of anything done before the coming into operation of this Order.

6.—(1) Paragraphs (2) to (4) apply in relation to a function transferred by this Order.

(**1**) 2002 c.26.
(**2**) The Department of Justice was established by the Department of Justice Act 2010 c.3 (N.I.).

(2) Anything (including legal proceedings) which, at the coming into operation of this Order, is in the process of being done by or in relation to the Court Service may, so far as it relates to the function, be continued by or in relation to the Department of Justice.

(3) Anything done (or having effect as if done) by or in relation to the Court Service for the purposes of or in connection with the function shall have effect as if done by or in relation to the Department of Justice so far as necessary or expedient for continuing its effect after the coming into operation of this Order.

(4) Documents or forms printed for use in connection with the function may be used in connection with the function even though they contain, or are to be construed as containing, references to the Court Service; and for the purposes of the use of any such documents or forms after the coming into operation of this Order, those references are to be read as references to the Department of Justice.

(5) A complaint made under section 9D of the Justice (Northern Ireland) Act 2002(**3**) in relation to the Court Service, whether made before or after the coming into operation of this Order, may be investigated by the Northern Ireland Judicial Appointments Ombudsman notwithstanding the abolition of the Court Service.

7.—(1) Any enactment or instrument passed or made before the coming into operation of this Order shall have effect, so far as necessary or expedient in consequence of or for giving full effect to—

(a) the transfer of a function under this Order, or

(b) Article 5 or 6,

as if any references (including references which are to be construed as such references) to the Court Service were or included references to the Department of Justice.

(2) In this Article "instrument" includes (in particular) Royal Charters, Orders in Council, Letters Patent, judgments, decrees, orders, rules, regulations, schemes, bye-laws, awards, licences, codes, guidance, authorisations, consents, approvals, contracts and other agreements, memoranda and articles of association, warrants, certificates, deeds and other documents.

Jack Straw
Lord Chancellor

Dated 28th March 2010

(**3**) Section 9D was inserted by section 127 of the Constitutional Reform Act 2005 c.4.

SCHEDULE Article 4

CONSEQUENTIAL AMENDMENTS

PART 1

Amendments to Acts

Magistrates' Courts Act (Northern Ireland) 1964

1. In section 6(1) of the Magistrates' Courts Act (Northern Ireland) 1964(**4**) (persons disqualified from acting as justices), for "member of the Northern Ireland Court Service" substitute "a civil servant in the Department of Justice".

Parliamentary Commissioner Act 1967

2.—(1) The Parliamentary Commissioner Act 1967(**5**) is amended as follows.

(2) In section 5(6)(**6**) (matters subject to investigation), omit "or, in Northern Ireland, of the Northern Ireland Court Service".

(3) In Schedule 2(**7**) (departments etc subject to investigation), omit "Northern Ireland Court Service".

House of Commons Disqualification Act 1975

3. In section 1(3) of the House of Commons Disqualification Act 1975(**8**) (disqualification of holders of certain offices and places), in the definition of "civil service of the Crown", omit ", the Northern Ireland Court Service".

Northern Ireland Assembly Disqualification Act 1975

4. In section 1(2) of the Northern Ireland Assembly Disqualification Act 1975(**9**) (disqualification of holders of certain offices and places), in the definition of "civil service of the Crown", omit ", the Northern Ireland Court Service".

Judicature (Northern Ireland) Act 1978

5.—(1) The Judicature (Northern Ireland) Act 1978(**10**) is amended as follows.

(2) In section 69(**11**) (Northern Ireland Court Service)—

(**4**) 1964 c.21 (N.I.). Section 6(1) was amended by SR 1982 No.192 and Schedule 5 to the Judicature (Northern Ireland) Act 1978 c.23.
(**5**) 1967 c.13.
(**6**) Section 5(6) was inserted by section 110 of the Courts and Legal Services Act 1990 c.41 and was amended by S.I. 2007/2128.
(**7**) Schedule 2 was substituted by S.I. 2008/3115.
(**8**) 1975 c.24. The reference to the Northern Ireland Court Service in the definition of "civil service of the Crown" in section 1(3) was inserted by Part 2 of Schedule 5 to the Judicature (Northern Ireland) Act 1978. The entry in Schedule 5 to the 1978 Act is repealed by paragraph 5(5) to this Order.
(**9**) 1975 c.25.The reference to the Northern Ireland Court Service in the definition of "civil service of the Crown" in section 1(2) was inserted by Part 2 of Schedule 5 to the Judicature (Northern Ireland) Act 1978. The entry in Schedule 5 to the 1978 Act is repealed by paragraph 5(5) to this Order.
(**10**) 1978 c.23.
(**11**) Section 69 was amended by S.I. 1981/226, S.I. 1981/1670, the Statute Law (Repeal) Act 2004 c.23 and paragraph 6 of Schedule 11 to the Constitutional Reform Act 2005 c.4.

(a) for the heading, substitute "General Functions of the Department of Justice in relation to Courts and Judgments";

(b) for subsection (1) substitute—

"(1) The functions of the Department of Justice include—

(a) facilitating the conduct of the business of the following courts, namely—

(i) the Court of Judicature;

(ii) county courts;

(iii) magistrates' courts; and

(iv) coroners' courts;

(b) giving effect to judgments to which the Judgments Enforcement (Northern Ireland) Order 1981 applies; and

(c) discharging such other functions in relation to the courts mentioned in paragraph (a) or the enforcement of the judgments mentioned in paragraph (b) as are conferred on, or transferred to, it or any civil servants in the Department of Justice by or under this Act or any other statutory provision.";

(c) omit subsections (2) and (3);

(d) in subsection (4), omit "by the Court Service";

(e) omit subsection (6).

(3) In paragraph (d) of section 76 (property held by officers), for "member of the Northern Ireland Court Service" substitute "person designated as a chief clerk under Article 2(2) of the County Courts (Northern Ireland) Order 1980(**12**) or appointed as a clerk of petty sessions under Article 2(4) of the Magistrates' Courts (Northern Ireland) Order 1981(**13**)".

(4) In section 85 (provision for default to be made good), for "member of the Northern Ireland Court Service" substitute "civil servant in the Department of Justice".

(5) In Part 2 of Schedule 5 (minor and consequential amendments), omit the entries relating to section 1(3) of the House of Commons Disqualification Act 1975 and section 1(2) of the Northern Ireland Assembly Disqualification Act 1975.

Social Security Administration (Northern Ireland) Act 1992

6.—(1) Schedule 4 to the Social Security Administration (Northern Ireland) Act 1992(**14**) (persons employed in social security administration or adjudication) is amended as follows.

(2) In paragraph (c) of the entry relating to government departments in Part 1 (the specified persons), for "Northern Ireland Court Service" substitute "Department of Justice".

(3) In paragraph 3 of Part 2 (construction of references to government departments etc.), for "Northern Ireland Court Service is a reference to that Service" substitute "Department of Justice is a reference to that Department".

Freedom of Information Act 2000

7. In section 84 of the Freedom of Information Act 2000(**15**) (interpretation), in the definition of "government department" omit ", the Northern Ireland Court Service".

(**12**) S.I. 1980/397 (N.I. 3)
(**13**) S.I. 1981/1675 (N.I. 26)
(**14**) 1992 c.8.
(**15**) 2000 c.36.

Private Security Industry Act 2001

8.—(1) Schedule 2 to the Private Security Industry Act 2001(**16**) (activities liable to control under the Act) is amended as follows.

(2) In paragraph 3(3A)(aa)(**17**) (immobilisation of vehicles), for "Northern Ireland Court Service" substitute "Department of Justice in Northern Ireland".

(3) In paragraph 3A(6)(aa)(**18**) (restriction and removal of vehicles), for "Northern Ireland Court Service" substitute "Department of Justice in Northern Ireland".

Justice (Northern Ireland) Act 2002

9.—(1) The Justice (Northern Ireland) Act 2002(**19**) is amended as follows.

(2) In section 46(1)(ha)(**20**) (functions of Chief Inspector), for "Northern Ireland Court Service" substitute "Department of Justice insofar as it is concerned with the operation of the criminal courts".

(3) In section 73(2) (constitution of Rules Committees) in the inserted sub-paragraph (f) of Article 46(1) of the County Courts (Northern Ireland) Order 1980(**21**), for "member of the Northern Ireland Court Service" substitute "civil servant in the Department of Justice".

(4) In paragraph 4 of Schedule 2 (Judicial Appointments Commission), sub-paragraph (2) is amended as follows—

(a) after paragraph (a) insert "or";

(b) omit paragraph (c) and the word "or" which precedes it.

(5) In paragraph 4 of Schedule 9 (Law Commission), sub-paragraph (2) is amended as follows—

(a) after paragraph (a) insert "or";

(b) omit paragraph (c) and the word "or" which precedes it.

Justice (Northern Ireland) Act 2004

10.—(1) The Justice (Northern Ireland) Act 2004(**22**) is amended as follows.

(2) In section 8(4) (guidance for criminal justice organisations on human rights standards), omit paragraph (b).

(3) In Schedule 3 (court security)—

(a) in the heading preceding paragraph 1, for "Court Service" substitute "Department of Justice";

(b) in paragraph 1—

(i) for "Court Service" in sub-paragraph (1) substitute "Department of Justice";

(ii) for "Court Service" in sub-paragraph (2) substitute "Department of Justice";

(iii) for "members of staff of the Court Service" in sub-paragraph (3)(a) substitute "civil servants in the Department of Justice";

(iv) for "Court Service" in sub-paragraph (3)(b) substitute "Department of Justice";

(c) in paragraph 3(6)(d), for "officer or other member of staff of the Court Service" substitute "civil servant in the Department of Justice".

(**16**) 2001 c.12.
(**17**) Sub-paragraph (3A) of paragraph 3 was inserted by S.I. 2006/1831. Paragraph (aa) was inserted by S.I. 2009/3043.
(**18**) Paragraph 3A was inserted by S.I. 2005/224 and paragraph (aa) was inserted by S.I. 2009/3043.
(**19**) 2002 c.26.
(**20**) Section 46(1)(ha) was inserted by section 45(2)(b) of the Justice and Security (Northern Ireland) Act 2007 c.6.
(**21**) S.I. 1980/397 (N.I. 3).
(**22**) 2004 c.4.