

NORTHERN IRELAND HUMAN RIGHTS COMMISSION
SUGGESTED AMENDMENTS TO THE JUSTICE (NI) BILL 2002
PAPER 1: 30 JANUARY 2002

Insert new clause 1:¹

Aims of criminal justice system

- (1) The principal aim of the criminal justice system in Northern Ireland is to protect the public by reducing crime and the fear of crime.
- (2) All persons and bodies exercising functions in relation to the criminal justice system in Northern Ireland must have regard to that principal aim in exercising their functions.
- (3) With a view to promoting confidence in the administration of the criminal justice system, all such persons and bodies must also have regard to the need to operate a system which is independent, fair, accessible, open, inclusive, effective and protective of human rights.
- (4) Each agency working in the criminal justice system shall publish statements of ethics covering all those employed or holding office in that agency.

Amendments to existing clause 1:

Clause 1, page 1, line 2, after ‘judiciary’, insert ‘from the executive, the legislature and any other organisation’.²

Clause 1, page 1, line 2, at end insert –

() The judiciary shall decide matters before them impartially, on the

¹ The Bill already contains a clause setting out the aims of the youth justice system (clause 49), but not a more general clause. In December 2001 the UK Government published a document setting out the purpose and aims of the criminal justice system in Northern Ireland. The Northern Ireland Human Rights Commission believes that a version of those aims should be inserted at the start of the Bill to serve as a guide for how the rest of the Bill should be applied. If the preferred view is that such a clause is not best placed in a Part of the Bill dealing with the judiciary, we recommend that it be inserted as a new clause 61 in Part 5 (Miscellaneous). Sub-clause (4) above is based on Recommendation 7 in the Review of the Criminal Justice System in Northern Ireland (March 2000).

² This amendment is intended to make it very clear that the judiciary must in particular be independent of the government and of the legislature. The doctrine of the separation of powers is fundamental to the operation of a healthy democracy.

basis of facts and in accordance with the law, without any restrictions, improper influences, inducements, pressures, threats or interferences, direct or indirect, from any quarter or for any reason'.³

Amendments to existing clause 3:

Clause 3, page 3, line 1, leave out 'lay members' and insert 'members of the 'Judicial Appointments Commission'.⁴

Clause 3, page 3, line 2, leave out 'lay'.

Clause 3, page 3, line 3, leave out 'representative' and insert 'reflective'.⁵

Clause 3, page 3, line 3, after 'Northern Ireland', insert –

- () In exercising its functions the Judicial Appointments Commission shall have a duty to apply best practice as indicated by the Commissioner for Public Appointments.

Amendments to existing clause 4:⁶

Clause 4, page 3, line 10, leave out 'Prime Minister' and insert 'Judicial Appointments Commission'.

Clause 4, page 3, leave out lines 17 to 22.

Clause 4, page 3, leave out lines 23 to 27.

Clause 4, page 3, leave out lines 28 to 33.

Clause 4, page 3, leave out lines 34 to 39.

³ This new sub-clause is based on Principle 2 of the UN's Basic Principles on the Independence of the Judiciary (1985). The Northern Ireland Human Rights Commission believes that international standards on human rights should be incorporated into the law of Northern Ireland wherever appropriate and the Review of the Criminal Justice System stressed at several points the importance of adherence to those standards.

⁴ The Commission believes that the entire Judicial Appointments Commission – not just its lay members – should be reflective of the community in Northern Ireland.

⁵ The term "reflective" is less precise than "representative" and therefore less problematic. It also makes it easier to move away from the notion that the only relevant factor to bear in mind is the perceived religious background of the judges.

⁶ The Human Rights Commission believes that all judicial appointments, including those of the Lord Chief Justice and Lords Justices of Appeal in Northern Ireland should be made by the Judicial Appointments Commission (even if nominally in the name of Her Majesty).

Amendment to clause 8:

Clause 8, page 6, line 29, leave out ‘or, is’.⁷

Amendment to clause 9:

Clause 9, page 7, line 13, leave out ‘Lord Chief Justice’, and insert ‘Northern Ireland Court Service’.⁸

Clause 9, page 7, line 15, leave out ‘Lord Chief Justice’, and insert ‘Judicial Appointments Commission’.⁹

Clause 9, page 7, line 22, leave out ‘Lord Chief Justice’, and insert ‘Northern Ireland Court Service’.

Clause 9, page 7, line 24, leave out ‘lord Chief Justice’, and insert ‘Northern Ireland Court Service’.

Amendment to clause 12:

Clause 12, page 8, line 17, leave out ‘Lord Chancellor’, and insert ‘Judicial Appointments Commission’.¹⁰

Amendment to clause 16:

Clause 16, page 11, line 34, leave out ‘realm’, and insert ‘jurisdiction’.¹¹

Clause 16, page 11, line 39, leave out ‘realm’, and insert ‘jurisdiction’.

⁷ The Commission believes that non-serving judges should be in the majority on the tribunal.

⁸ The Commission believes that the Lord Chief Justice should not be responsible for drafting a code by which he or she will be personally bound.

⁹ The Commission believes that the Lord Chief Justice should not be responsible for referring complaints to a tribunal when he or she may be one of the persons against whom a complaint is made.

¹⁰ The Commission believes that lay magistrates should be appointed in the same way as professional judges.

¹¹ Strictly speaking Northern Ireland is not a ‘realm’ but a ‘jurisdiction’.