

62/2000

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cc:

Subject: GM/220/2000 - Appointment of Queen's Counsel in Northern Ireland



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APPOINTMENT OF QUEEN'S COUNSEL IN NORTHERN IRELAND

As you are aware, two barristers who were recently about to be called as Queen's Counsel in Northern Ireland challenged in the High Court the decision of the Law Commission not to alter the wording of the declaration which all those to be appointed Queen's Counsel are required to make. The present wording of that declaration is:

"I do sincerely promise and declare that I will well and truly serve Her Majesty Queen Elizabeth II and all whom I may lawfully be called upon to serve in the office of one of Her Majesty's Counsel chosen in the due exercise of the best of my skill and understanding."

This is the same wording as used in England and Wales. In April 1997 the Law Commission recommended that the wording of declaration used by QCs in Northern Ireland be changed to:

"I do sincerely promise and declare that I will well and truly serve Her Majesty Queen Elizabeth II and all whom I may lawfully be called upon to serve in the office of one of Her Majesty's Counsel chosen in the due exercise of the best of my skill and understanding."

The Law Commission's recommendation was based on the fact that the proposed change would bring the wording of the declaration in Northern Ireland into line with that used in England and Wales.



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27 June 2000

Seamus,

APPOINTMENT OF QUEEN'S COUNSEL IN NORTHERN IRELAND

As you are aware, two barristers who were recently about to be called as Queen's Counsel in Northern Ireland challenged in the High Court the decision of the Lord Chancellor not to alter the wording of the declaration which all those to be appointed Queen's Counsel are required to make. The present wording of that declaration is:

"I [] do sincerely promise and declare that I will well and truly serve Her Majesty Queen Elizabeth II and all whom I may lawfully be called upon to serve in the office of one of Her Majesty's Counsel learned in the law according to the best of my skill and understanding."

This is the same wording as used in England and Wales. In April 1997 the Elliott Committee recommended that the wording of declaration taken by QC's in Northern Ireland be changed to:

"I [] do sincerely promise and declare that I will well and truly serve all whom I may lawfully be called upon to serve in the office of one of Her Majesty's Counsel learned in the law according to the best of my skill and understanding."

The two barristers alleged that the specific reference to "Her Majesty Queen Elizabeth II" discriminated against those belonging to the nationalist community in Northern



Ireland. The Court found the existing declaration lawful and that there was no evidence of discrimination.

There was however also a finding that the Lord Chancellor had been given a mistaken impression of the views of the Northern Ireland judiciary on the Elliott report recommendation (when those were not in fact known) and that this had influenced the Lord Chancellor's assessment of the level of controversy attaching to his decision to retain the existing form of declaration. In the circumstances, therefore, the Lord Chancellor has been carefully reconsidering the form of wording which the declaration should take, and in consultation with Sir Robert Carswell and myself he has now decided that, in future, those called as Queen's Counsel in Northern Ireland will be required to make the declaration recommended by the Elliott Committee in 1997.

"Queen's Counsel" in Northern Ireland will continue to be described as such, and where instructed by The Crown will continue to be obliged to serve The Crown as any other client. The Bar Council has recently re-affirmed support for this change which also has the support of the Human Rights Commission.

A call ceremony for the two barristers using that wording will be arranged before the end of June. I am also writing to David Trimble to inform him of the Lord Chancellor's decision.

A handwritten signature in black ink, appearing to read "Peter Mandelson".

PETER MANDELSON