

## SCHEDULES

### SCHEDULE 4

#### Amendments relating to prisons

##### *Prison Act (Northern Ireland) 1953*

1. Amend the Prison Act (Northern Ireland) 1953(1) as follows.

2.—(1) In section 1(1) (functions in relation to prisons and prisoners) for “Ministry of Home Affairs (in this Act referred to as “the Ministry”)” substitute “Department of Justice (in this Act referred to as “the Department”)”.

(2) In section 1(2) for “Ministry” (where it occurs first) substitute “Department” and for “Ministry” (where it occurs second) substitute “Ministry of Home Affairs”.

(3) In sections 2, 3, 9, 12, 13, 15, 16, 24 and 38, for “Ministry” or “Minister” (in each place where those words referred to the Ministry of Home Affairs or the Minister of Home Affairs before functions were transferred to the Secretary of State) substitute “Department”.

(4) In sections 2(3), (4), (5) and (6) and 9(6) for “Ministry of Finance” substitute “Department of Finance and Personnel”.

(5) In sections 10, 19A, 19B, 34, 34A, 34C and 41 for “Secretary of State” (wherever occurring) substitute “Department”.

(6) In sections 24(1) and 41(1) for “he” substitute “the Department”.

3.—(1) After section 1 insert—

#### **“1A Powers of the Secretary of State**

(1) For purposes connected with any matter mentioned in subsection (2), the Secretary of State may continue to exercise the functions (except functions under prison rules) which the Secretary of State had by virtue of this Act immediately before the coming into force of the Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (notwithstanding the transfer of those functions to the Department by virtue of that Order).

(2) The matters are—

- (a) activities regulated by, or otherwise relating to the subject matter of, Parts 1 to 3 of the Regulation of Investigatory Powers Act 2000(2), including (in particular) in relation to information obtained through any such activities—

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(1) 1953 c. 18 (N.I.). Functions under the Act were transferred by, and sections 5 and 43 were amended by, S.I. 1973/2163. Section 10 was substituted by S.I. 2005/1965 (N.I. 15). Section 13 was amended by section 31 of the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (N.I.), S.I. 1976/226 (N.I. 4), S.I. 1980/1084 (N.I. 10) and S.I. 2005/1965 (N.I. 15). Section 16 was amended by S.I. 1980/397 (N.I. 3) and S.I. 1986/1883 (N.I. 15). Sections 19A and 19B were inserted by S.I. 2004/704 (N.I. 5). Section 34 was substituted, and sections 34A to 34C inserted, by S.I. 2008/1216 (N.I. 1). Section 41 was substituted by S.I. 1982/713 (N.I. 10). Section 47 was amended by S.I. 1989/1344 (N.I. 15), S.I. 1998/1504 (N.I. 9) and S.I. 2005/1965 (N.I. 15), and the Interpretation Act (Northern Ireland) 1954 (c. 33) (N.I.). The Schedules were repealed by the Treatment of Offenders Act (Northern Ireland) 1968 (c. 29) (N.I.) and S.I. 1980/1084 (N.I. 10). There are other amendments to the Act, but none are relevant.

(2) 2000 c. 23.

*Status: This is the original version (as it was originally made).*

- (i) the taking of decisions on the basis of the information;
  - (ii) the controlling of access to the information;
  - (iii) the holding and use of the information (so far as not covered by sub-paragraphs (i) and (ii));
- (b) where at any time the accommodation of prisoners in separated conditions on the grounds of security, safety or good order is provided for, decisions about whether a prisoner is to be so accommodated or is to cease to be so accommodated, including (in particular) the setting of any criteria upon which such decisions are to be based;
- (c) national security, including (in particular)—
- (i) the taking of decisions on the basis of protected information;
  - (ii) the controlling of access to protected information;
  - (iii) the holding and use of protected information (so far as not covered by sub-paragraphs (i) and (ii)).

“Protected information” means information the disclosure of which may, in the opinion of the Secretary of State, be against the interests of national security.

(3) In particular, the Secretary of State may continue to make prison rules.

(4) The Department must exercise its functions subject to any thing done by the Secretary of State under subsection (1) and, in particular, prison rules made by the Department have effect subject to prison rules made by the Secretary of State.

(5) Before making prison rules the Secretary of State or the Department (as the case may be) must consult the other.

(6) Prison rules may, in particular, confer or impose functions on the Secretary of State.

(7) The Secretary of State may from time to time, for purposes connected with any matter mentioned in subsection (2) and after consultation with the Department, give a direction setting out arrangements under which officers of the Department (including persons appointed under section 2(2)) who have duties in relation to prisons or prisoners are (so far as provided by, and in accordance with, the arrangements) to be treated as officers of the Secretary of State (rather than of the Department) and subject to his direction and control accordingly; and the officers covered by the direction are to act accordingly.

(8) The arrangements may (in particular) provide for officers to exercise functions of the Secretary of State.”

(2) The Secretary of State need not consult the Department of Justice before giving his first direction under section 1A(7) (as inserted by sub-paragraph (1) above).

(3) But the first direction ceases to have effect at the end of the period of six months beginning with the day on which it is given (unless, before then, it is revoked by a further direction).

4. In section 5 (annual report)—

(a) for subsection (1) substitute—

“(1) The Department shall prepare an annual report on the administration of this Act and shall lay the report before the Assembly.”; and

(b) in subsection (2)(c) for “Minister give the best information to Parliament” substitute “Department give the best information to the Assembly”.

5. For section 34(8) (parliamentary procedure for orders amending section 34) substitute—

“(8) An order made by the Department under subsection (7) is subject to negative resolution.

(9) Section 1A(1) does not apply to the power to make orders under subsection (7).”

6. For section 42 substitute—

**“42 Laying of prison rules**

(1) Prison rules made by the Department are subject to negative resolution.

(2) Prison rules made by the Secretary of State are subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946<sup>(3)</sup> applies accordingly.”

7. In section 47(1) (interpretation), at the appropriate place, insert—

““Department” means the Department of Justice;”.

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(3) 1946 c. 36.