



# Northern Ireland Constitution Act 1973

## 1973 CHAPTER 36

### PART V

#### MISCELLANEOUS AND SUPPLEMENTARY

#### **31 Abolition of Parliament of Northern Ireland**

- (1) The Parliament of Northern Ireland shall cease to exist.
- (2) Unless and until the Clerk to the Assembly otherwise determines, every person who immediately before the date of the passing of this Act was employed in the service of, or of either House of, the Parliament of Northern Ireland in any office mentioned in subsection (3) below shall as from that date be employed in the service of the Assembly with the same remuneration and conditions of service.
- (3) The said offices are Clerk-Assistant of the Parliaments, Second Clerk-Assistant of the Parliaments, Fourth Clerk at the Table, Librarian and Assistant Librarian, Editor and Deputy Editor of Official Reports of Debates and Reporter.
- (4) Subject to subsection (5) below, all property which immediately before the date of the passing of this Act was held in trust or used for the purposes of, or either House of, the Parliament of Northern Ireland, or partly for those purposes and partly for other purposes, shall on and after that date be applied for the purposes of the Assembly or such other purposes as the Ministry of Finance for Northern Ireland may determine.
- (5) The Secretary of State may require the Ministry to make available to him in any premises comprised in the property mentioned in subsection (4) above (other than the Parliament Buildings at Stormont) such accommodation and facilities as he may specify ; and the Secretary of State shall in consideration of the use thereof after the appointed day make to the Ministry such payments out of moneys provided by Parliament as he and the Ministry may agree.
- (6) In so far as any of the property mentioned in subsection (4) above was not immediately before the date of the passing of this Act vested in the Ministry of Finance for Northern Ireland it shall vest in that Ministry on that date; and subsections (4) and (5) above

shall have effect notwithstanding anything in any deed or other instrument relating to the property to which those subsections apply.

**32 Abolition of office of Governor and provisions as to Privy Council of Northern Ireland**

- (1) The office of Governor of Northern Ireland shall cease to exist.
- (2) There shall be charged on and paid out of the Consolidated Fund of the United Kingdom to the last holder of that office such sum as the Secretary of State may, with the consent of the Minister for the Civil Service, determine to be appropriate.
- (3) No further appointments shall be made to the Privy Council of Northern Ireland.

**33 Preservation of pension rights of former members of Parliament of Northern Ireland and former Ministers**

- (1) The Secretary of State shall be the sole trustee under Schedule 2 to the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965 unless and until he appoints other persons to be trustees under that Schedule; and so long as the Secretary of State is sole trustee paragraphs 1 to 5 of that Schedule shall not apply.
- (2) Save as aforesaid and without prejudice to any provision made under this Act, nothing in this Act affects any pension payable under the said Act of 1965 or section 1 of the Ministerial Offices Act (Northern Ireland) 1952 the right to which has accrued before the passing of this Act or accrues upon a person ceasing to be a member of the Parliament of Northern Ireland by reason of section 31 above.

**34 Director of Public Prosecutions for Northern Ireland**

- (1) As from the appointed day the Prosecution of Offences (Northern Ireland) Order 1972 (which establishes and makes provision for the office of Director of Public Prosecutions for Northern Ireland) shall have effect subject to the following provisions of this section.
- (2) Any appointment to the office of Director or deputy Director of Public Prosecutions for Northern Ireland shall be made by the Attorney General for Northern Ireland; and the Attorney General for Northern Ireland may remove the Director or deputy Director on the ground of inability or misbehaviour.
- (3) In Article 4(2)(b) and (c) (provisions as to resignation and retirement) for references to the Governor of Northern Ireland there shall be substituted references to the Attorney General for Northern Ireland.
- (4) Article 3(2) (which places the Director under the superintendence of the Attorney General so long as section 1 of the Northern Ireland (Temporary Provisions) Act 1972 has effect) shall continue to apply after that section ceases to have effect.
- (5) Any reference in Article 4 or 8 to the Ministry of Home Affairs or the Ministry of Finance shall, as respects anything falling to be done after the appointed day, be construed as a reference to the Secretary of State.

### **35 Crown Solicitor for Northern Ireland**

- (1) As from the appointed day there shall be a Crown Solicitor for Northern Ireland appointed by the Attorney General for Northern Ireland.
- (2) The Crown Solicitor shall hold office on such terms and conditions as may be determined by the Attorney General for Northern Ireland.
- (3) The services of the Crown Solicitor shall be available to any Minister or department of the Government of the United Kingdom and, with the approval of the Attorney General for Northern Ireland and on such terms as he may determine, to any Northern Ireland executive authority.
- (4) The remuneration of, and other expenses incurred in connection with, the Crown Solicitor shall be defrayed out of moneys provided by Parliament.

### **36 Provisions as to other Northern Ireland officers**

- (1) Any appointment on or after the appointed day to the office of—
  - (a) Northern Ireland Parliamentary Commissioner for Administration;
  - (b) Northern Ireland Commissioner for Complaints;
  - (c) Civil Service Commissioner for Northern Ireland ;
  - (d) Comptroller and Auditor-General for Northern Ireland,shall be made by Her Majesty.
- (2) The Parliamentary Commissioner Act (Northern Ireland) 1969 shall, in relation to any complaint made on or after the date of the passing of this Act, have effect as if for any reference in sections 5 and 6 to a member of the House of Commons there were substituted a reference to a member of the Assembly ; and any report to be sent on or after that date under section 10(1) of that Act in respect of a complaint made before that date shall be sent by the Commissioner to such member of the Assembly as he thinks appropriate.
- (3) Section 10(3), (4) and (5) of the said Act of 1969 shall, as from the appointed day, have effect as if for any reference to each or either House of Parliament or to a member of the House of Commons there were substituted a reference to the Assembly or a member of the Assembly.
- (4) Subsections (2) and (3) above have effect subject to any provision made by Measure.
- (5) Her Majesty may by Order in Council make provision with respect to the appointment of lord-lieutenants, lieutenants and deputy lieutenants in Northern Ireland, for conferring on them functions which apart from the Order would be exercisable by lieutenants in Northern Ireland, for altering the designation of vice-lieutenants in Northern Ireland and for matters incidental to or consequential on any provision so made, including the amendment or repeal of any enactment passed before this Act.
- (6) An Order in Council under subsection (5) above may be varied or revoked by a subsequent Order.

### **37 Provisions as to Joint Exchequer Board and other financial matters**

- (1) The functions of the Joint Exchequer Board are hereby transferred to the Treasury and that Board shall cease to exist.

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- (2) Any sums which, apart from this Act, would be payable into the Consolidated Fund of the United Kingdom by virtue of section 22(1) of the Government of Ireland Act 1920 (reserved taxes) shall continue to be so paid; and, subject to subsection (3) below, any sums which, apart from this Act, would be payable into the Consolidated Fund of Northern Ireland by virtue of section 21(1) of that Act (transferred taxes) shall continue to be so paid.
- (3) There shall be paid into the Consolidated Fund of the United Kingdom, as from such date as the Treasury may by order direct, the proceeds of any tax specified in the order which would otherwise be paid into the Consolidated Fund of Northern Ireland.
- (4) The power to make orders under subsection (3) above includes power to vary or revoke a previous order and shall be exercisable by statutory instrument.

### **38 Power to legislate by Order in Council for certain matters relating to Northern Ireland**

- (1) Her Majesty may by Order in Council make provision with respect to the following matters—
  - (a) elections (but not the franchise) and boundaries in respect of local authorities in Northern Ireland;
  - (b) the constitution of the Police Authority for Northern Ireland.
- (2) Her Majesty may by Order in Council make such amendments of the law of any part of the United Kingdom as appear to Her Majesty to be necessary or expedient in consequence of any provision made by or under any Measure or Act of the Parliament of Northern Ireland or Order in Council under section 1(3) of the Northern Ireland (Temporary Provisions) Act 1972 or by or under any Act of the Parliament of the United Kingdom passed before this Act in so far as the provision is part of the law of Northern Ireland.
- (3) An Order in Council under subsection (2) above may contain such consequential and supplemental provisions as appear to Her Majesty to be necessary or expedient.
- (4) An Order in Council under this section may be varied or revoked by a subsequent Order.
- (5) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been approved by resolution of each House of Parliament.

### **39 Power to legislate by Order in Council for purposes consequential on this Act or on Orders under s. 3**

- (1) Her Majesty may by Order in Council make such provision, including provision amending the law of any part of the United Kingdom, as appears to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, this Act or any Order under section 3 above; and, without prejudice to the generality of that power, provision may in particular be made by any such Order for any of the matters mentioned in subsections (2) to (7) below.
- (2) Provision may be made for transferring, with effect from the appointed day, any functions which immediately before that day are (or but for the Northern Ireland

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- (Temporary Provisions) Act 1972 or section 32 or 37 above would be) exercisable by an existing Northern Ireland authority—
- (a) in so far as those functions appear to Her Majesty to be concerned with an excepted matter or reserved matter, to a United Kingdom authority;
  - (b) in so far as they appear to Her Majesty to be concerned with a transferred matter, to a new Northern Ireland authority.
- (3) Provision may be made, with effect from the appointed day, for anything which immediately before that day would, apart from the said Act of 1972 or section 31 above, fall to be done by or to the Parliament of Northern Ireland or either House of that Parliament in connection with any matter (other than the passing of Acts of that Parliament) to be done instead by or to—
- (a) in so far as that matter appears to Her Majesty to be an excepted matter or reserved matter, the Parliament of the United Kingdom or either House of that Parliament ;
  - (b) in so far as that matter appears to Her Majesty to be a transferred matter, the Assembly.
- (4) Provision may be made for transferring, with effect from any date specified in an Order under section 3 above, any functions which immediately before that date are exercisable by a United Kingdom authority or a new or existing Northern Ireland authority—
- (a) in so far as they appear to Her Majesty to be concerned with a matter which on that date becomes a transferred matter, to a new or existing Northern Ireland authority;
  - (b) in so far as they appear to Her Majesty to be concerned with a matter which on that date ceases to be a transferred matter, to a United Kingdom authority.
- (5) Provision may be made, with effect from any date specified in an Order under the said section 3, for anything which immediately before that date falls to be done by or to the Parliament of the United Kingdom or either House of that Parliament or by the Assembly in connection with any matter (other than the passing of Acts of Parliament or Measures) to be done instead by or to—
- (a) in so far as that matter appears to Her Majesty to be a matter which on that date becomes a transferred matter, the Assembly;
  - (b) in so far as that matter appears to Her Majesty to be a matter which on that date ceases to be a transferred matter, the Parliament of the United Kingdom or either House of that Parliament.
- (6) Provision may be made for any sums to be charged on and payable out of, or payable into, the Consolidated Fund of the United Kingdom or the Consolidated Fund of Northern Ireland or for any sums to be paid out of moneys provided by Parliament or out of moneys appropriated by Measure.
- (7) Provision may be made, to such extent as may appear to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, this Act or any Order under section 3 above—
- (a) for transferring or apportioning any property, rights or liabilities ;
  - (b) for substituting any authority for any other authority in any charter, contract or other document or in any legal proceedings ;
  - (c) for any other transitional or consequential matter.
- (8) In this section—

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" existing Northern Ireland authority " means the Governor of Northern Ireland, the Privy Council of Northern Ireland, the Governor of Northern Ireland in Council, the Prime Minister and any other Minister of the Government of Northern Ireland, any department of that Government, the Comptroller and Auditor-General for Northern Ireland, the Joint Exchequer Board and the Chief Crown Solicitor in Northern Ireland;

" new Northern Ireland authority " means any of the Northern Ireland executive authorities ;

" United Kingdom authority " means the Privy Council, any Minister of the Government of the United Kingdom, the Treasury, the Defence Council, the Commissioners of Inland Revenue, the Commissioners of Customs and Excise, the Comptroller and Auditor General and the Crown Solicitor for Northern Ireland appointed under this Act.

- (9) The power to make Orders under this section includes power to vary or revoke a previous Order and no recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been approved by resolution of each House of Parliament.

#### **40 General adaptation of references to institutions and offices abolished by this Act**

- (1) Schedule 5 to this Act shall have effect as from the appointed day for adapting references in existing statutory provisions to institutions and offices which cease to exist by virtue of this Act.
- (2) Where an existing statutory provision refers (otherwise than for the purpose of extending or restricting the powers of the Parliament of Northern Ireland) to the matters in respect of which that Parliament has or does not have power to make laws, that provision shall be construed as referring to the matters in respect of which that Parliament would or would not have had power to make laws if this Act had not been passed.
- (3) In this section " existing statutory provision " means any provision contained in an Act of the Parliament of Northern Ireland or in an Act of the Parliament of the United Kingdom passed before the appointed day or in the Session in which the appointed day falls and any provision contained in an instrument made before the appointed day under any such Act.
- (4) Subsection (1) above applies also in relation to any charter, contract or other document (not being a statutory provision) made before the appointed day.
- (5) This section and Schedule 5 have effect subject to any provision made by or under this Act or by Measure, and modify references only so far as their context and the nature of the provision or document in question admit.

#### **41 Repeals**

- (1) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule—
- (a) in the case of the enactments in Part I of that Schedule, as from the passing of this Act;
  - (b) in the case of those in Part II, as from the appointed day.

- (2) Without prejudice to the generality of the powers conferred by section 39 above, an Order in Council under that section may repeal or revoke any existing statutory provision (as defined in section 40 above) which appears to Her Majesty to be unnecessary in consequence of, or inconsistent with, any provision of this Act.

#### **42 Saving for existing laws**

- (1) Except so far as otherwise provided by or under this Act, nothing in this Act shall affect the continued operation in or in relation to Northern Ireland of any law in force at the passing of this Act or on the appointed day.
- (2) Without prejudice to subsection (1) above, neither the abolition of the Parliament of Northern Ireland nor the repeal by this Act of any provision relating to that Parliament shall affect the validity or otherwise of any Act of that Parliament.
- (3) Neither the abolition of the Parliament of Northern Ireland or of the office of Governor of Northern Ireland nor the repeal by this Act of any provision relating to that Parliament or office shall affect the operation of the Northern Ireland (Temporary Provisions) Act 1972 or the validity of any Order in Council made under section 1(3) of that Act; and any provision of any Act passed in the same Session as this Act which confers powers on the Parliament of Northern Ireland or functions on the Governor or the Governor in Council shall be construed as conferring corresponding powers on Her Majesty to make laws under the said section 1(3) or corresponding functions on the Secretary of State.

#### **43 Short title, interpretation and commencement**

- (1) This Act may be cited as the Northern Ireland Constitution Act 1973.
- (2) In this Act—
  - " the appointed day " means the day appointed under section 2 above for the commencement of Part II of this Act;
  - " the Assembly " means the Northern Ireland Assembly;
  - " excepted matter " means any matter specified in Schedule 2 to this Act;
  - " enactment " includes an enactment of the Parliament of Northern Ireland;
  - " functions " includes powers and duties ;
  - " Measure " means a Measure of the Northern Ireland Assembly;
  - " Northern Ireland " has the same meaning as for the purposes of the Government of Ireland Act 1920;
  - " Northern Ireland executive authorities " has the meaning given in section 7(6) above ;
  - " reserved matter " has the meaning given in section 3(4) above;
  - " transferred matter " means any matter which is for the time being declared to be such a matter by an order under Part I of this Act.
- (3) In accordance with section 7(5) above, references in this Act to the Ministry of Finance for Northern Ireland shall from the appointed day be construed as references to the Department of Finance for Northern Ireland.
- (4) Any reference in this Act to any enactment is a reference to that enactment as amended by, and includes a reference to that enactment as extended or applied by, any other enactment including this Act.

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- (5) Part I of this Act and, except where otherwise stated, Parts IV and V of this Act shall come into force at the passing of this Act.
- (6) Part III of this Act shall come into force on a day specified in an order made by the Secretary of State by statutory instrument, and different days may be specified under this subsection for different provisions of Part III.