



# Northern Ireland Act 1998

## 1998 CHAPTER 47

An Act to make new provision for the government of Northern Ireland for the purpose of implementing the agreement reached at multi-party talks on Northern Ireland set out in Command Paper 3883. [19th November 1998]

Be it enacted by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### Modifications etc. (not altering text)

- C1 Act modified (5.10.1999) by 1999 c. 10, ss. 16, 20(2)
- C2 Act excluded (temp. from 12.2.2000 to 30.5.2000) by 2000 c. 1, s. 1(8), Sch. para. 5(2); S.I. 2000/396, art. 2; S.I. 2000/1445, art. 2
- C3 Act: power to amend conferred (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), s. 11(2)-(5), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 c. 4, s. 1(1) (with s. 1(3)); S.I. 2007/1397, art. 2
- C4 Act modified (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), s. 18(8), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 c. 4, s. 1(1) (with s. 1(3)); S.I. 2007/1397, art. 2

## PART I

### PRELIMINARY

#### 1 Status of Northern Ireland.

- (1) It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1.

*Status: Point in time view as at 01/03/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Northern Ireland Act 1998 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (2) But if the wish expressed by a majority in such a poll is that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland, the Secretary of State shall lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty’s Government in the United Kingdom and the Government of Ireland.

## 2 Previous enactments.

The <sup>M1</sup>Government of Ireland Act 1920 is repealed; and this Act shall have effect notwithstanding any other previous enactment.

### Marginal Citations

M1 1920 c.67.

## 3 Devolution order.

- (1) If it appears to the Secretary of State that sufficient progress has been made in implementing the Belfast Agreement, he shall lay before Parliament the draft of an Order in Council appointing a day for the commencement of Parts II and III (“the appointed day”).
- (2) If the draft Order laid before Parliament under subsection (1) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.

### Subordinate Legislation Made

P1 S. 3(2) power fully exercised (1.12.1999): 2.12.1999 appointed by S.I. 1999/3208

## 4 Transferred, excepted and reserved matters.

- (1) In this Act—
- “excepted matter” means any matter falling within a description specified in Schedule 2;
  - “reserved matter” means any matter falling within a description specified in Schedule 3;
  - “transferred matter” means any matter which is not an excepted or reserved matter.
- (2) If at any time after the appointed day it appears to the Secretary of State—
- (a) that any reserved matter should become a transferred matter; or
  - (b) that any transferred matter should become a reserved matter,
- he may, subject to <sup>F1</sup>subsections (2A) and (3)] , lay before Parliament the draft of an Order in Council amending Schedule 3 so that the matter ceases to be or, as the case may be, becomes a reserved matter with effect from such date as may be specified in the Order.

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- [<sup>F2</sup>(2A) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending Schedule 3 so that a policing and justice matter ceases to be a reserved matter unless—
- (a) a motion for a resolution praying that the matter should cease to be a reserved matter is tabled by the First Minister and the deputy First Minister acting jointly; and
  - (b) the resolution is passed by the Assembly with the support of a majority of the members voting on the motion, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.]
- (3) The Secretary of State shall not lay [<sup>F3</sup>before Parliament under subsection (2) the draft of any other Order] unless the Assembly has passed with cross-community support a resolution praying that the matter concerned should cease to be or, as the case may be, should become a reserved matter.
- (4) If the draft of an Order laid before Parliament under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.
- (5) In this Act—
- “the Assembly” means the New Northern Ireland Assembly, which after the appointed day shall be known as the Northern Ireland Assembly;
  - “cross-community support”, in relation to a vote on any matter, means—
    - (a) the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting; or
    - (b) the support of 60 per cent of the members voting, 40 per cent of the designated Nationalists voting and 40 per cent of the designated Unionists voting;
  - “designated Nationalist” means a member designated as a Nationalist in accordance with standing orders of the Assembly and “designated Unionist” shall be construed accordingly.
- [<sup>F4</sup>(5A) Standing orders of the Assembly shall provide that a member of the Assembly designated in accordance with the standing orders as a Nationalist, as a Unionist or as Other may change his designation only if—
- (a) (being a member of a political party) he becomes a member of a different political party or he ceases to be a member of any political party;
  - (b) (not being a member of any political party) he becomes a member of a political party.]
- [<sup>F5</sup>(6) In this section “policing and justice matter” means a matter falling within a description specified in—12
- (a) any of paragraphs 9 to 12, 14A to 15A and 17 of Schedule 3; or
  - (b) any other provision of that Schedule designated for this purpose by an order made by the Secretary of State.]

#### Textual Amendments

- F1** Words in s. 4(2) substituted (11.3.2009) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006](#) (c. 33), [ss. 16\(2\), 31](#); [S.I. 2009/448](#), [art. 2](#)

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- F2** S. 4(2A) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 16(3), 31** (as amended by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(5), 27(4) (5) (with s. 1(3)) (as amended by Northern Ireland (St. Andrews Agreement) Act 2007 (c. 4), s. 1(1)); S.I. 2007/1397, **art. 2**); S.I. 2009/448, **art. 2**
- F3** Words in s. 4(3) substituted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 16(4), 31**; S.I. 2009/448, **art. 2**
- F4** S. 4(5A) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), **13, 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) 2007 c. 4, s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F5** S. 4(6) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 16(5), 31** (as amended by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss 18(6), 27(4) (5) (with s. 1(3)) (as amended by Northern Ireland (St. Andrews Agreement) Act 2007 (c. 4), s. 1(1)); S.I. 2007/1397, **art. 2**); S.I. 2009/448, **art. 2**

## PART II

### LEGISLATIVE POWERS

#### Modifications etc. (not altering text)

- C5** Pts. II-IV applied in part (1.1.2007) by The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (S.R. 2006/439), **reg. 53(6)**

#### General

### 5 Acts of the Northern Ireland Assembly.

- (1) Subject to sections 6 to 8, the Assembly may make laws, to be known as Acts.
- (2) A Bill shall become an Act when it has been passed by the Assembly and has received Royal Assent.
- (3) A Bill receives Royal Assent at the beginning of the day on which Letters Patent under the Great Seal of Northern Ireland signed with Her Majesty's own hand signifying Her Assent are notified to the Presiding Officer.
- (4) The date of Royal Assent shall be written on the Act by the Presiding Officer, and shall form part of the Act.
- (5) The validity of any proceedings leading to the enactment of an Act of the Assembly shall not be called into question in any legal proceedings.
- (6) This section does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland, but an Act of the Assembly may modify any provision made by or under an Act of Parliament in so far as it is part of the law of Northern Ireland.

### 6 Legislative competence.

- (1) A provision of an Act is not law if it is outside the legislative competence of the Assembly.

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- (2) A provision is outside that competence if any of the following paragraphs apply—
- (a) it would form part of the law of a country or territory other than Northern Ireland, or confer or remove functions exercisable otherwise than in or as regards Northern Ireland;
  - (b) it deals with an excepted matter and is not ancillary to other provisions (whether in the Act or previously enacted) dealing with reserved or transferred matters;
  - (c) it is incompatible with any of the Convention rights;
  - (d) it is incompatible with Community law;
  - (e) it discriminates against any person or class of person on the ground of religious belief or political opinion;
  - (f) it modifies an enactment in breach of section 7.
- (3) For the purposes of this Act, a provision is ancillary to other provisions if it is a provision—
- (a) which provides for the enforcement of those other provisions or is otherwise necessary or expedient for making those other provisions effective; or
  - (b) which is otherwise incidental to, or consequential on, those provisions;
- and references in this Act to provisions previously enacted are references to provisions contained in, or in any instrument made under, other Northern Ireland legislation or an Act of Parliament.
- (4) Her Majesty may by Order in Council specify functions which are to be treated, for such purposes of this Act as may be specified, as being, or as not being, functions which are exercisable in or as regards Northern Ireland.
- (5) No recommendation shall be made to Her Majesty to make an Order in Council under subsection (4) unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

## 7 Entrenched enactments.

- (1) Subject to subsection (2), the following enactments shall not be modified by an Act of the Assembly or subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department—
- (a) the <sup>M2</sup>European Communities Act 1972;
  - (b) the <sup>M3</sup>Human Rights Act 1998; and
  - (c) section 43(1) to (6) and (8), section 67, sections 84 to [<sup>F6</sup>86B], section 95(3) and (4) and section 98 [<sup>F7</sup>and.
  - <sup>F7</sup>(d) section 1 and section 84 of the Justice (Northern Ireland) Act 2002.]
- (2) Subsection (1) does not prevent an Act of the Assembly or subordinate legislation modifying section 3(3) or (4) or 11(1) of the European Communities Act 1972.
- (3) In this Act “Minister”, unless the context otherwise requires, means the First Minister, the deputy First Minister or a Northern Ireland Minister.

### Textual Amendments

- F6** Word in s. 7(1)(c) substituted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31, **Sch. 4 para. 10**; S.I. 2009/448, **art. 2**

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**F7** S. 7(1)(d) and word inserted (16.4.2007) by 2002 c. 26, ss. 84(1), 87(1); S.R. 2007/237, art. 2, Sch.

#### Marginal Citations

**M2** 1972 c.68.

**M3** 1988 c.42.

## 8 Consent of Secretary of State required in certain cases.

The consent of the Secretary of State shall be required in relation to a Bill which contains—

- (a) a provision which deals with an excepted matter and is ancillary to other provisions (whether in the Bill or previously enacted) dealing with reserved or transferred matters; or
- (b) a provision which deals with a reserved matter.

### *Scrutiny and stages of Bills*

## 9 Scrutiny by Ministers.

- (1) A Minister in charge of a Bill shall, on or before introduction of it in the Assembly, make a statement to the effect that in his view the Bill would be within the legislative competence of the Assembly.
- (2) The statement shall be in writing and shall be published in such manner as the Minister making the statement considers appropriate.

## 10 Scrutiny by Presiding Officer.

- (1) Standing orders shall ensure that a Bill is not introduced in the Assembly if the Presiding Officer decides that any provision of it would not be within the legislative competence of the Assembly.
- (2) Subject to subsection (3)—
  - (a) the Presiding Officer shall consider a Bill both on its introduction and before the Assembly enters on its final stage; and
  - (b) if he considers that the Bill contains—
    - (i) any provision which deals with an excepted matter and is ancillary to other provisions (whether in the Bill or previously enacted) dealing with reserved or transferred matters; or
    - (ii) any provision which deals with a reserved matter,
 he shall refer it to the Secretary of State; and
  - (c) the Assembly shall not proceed with the Bill or, as the case may be, enter on its final stage unless—
    - (i) the Secretary of State’s consent to the consideration of the Bill by the Assembly is signified; or
    - (ii) the Assembly is informed that in his opinion the Bill does not contain any such provision as is mentioned in paragraph (b)(i) or (ii).
- (3) Subsection (2)(b) and (c) shall not apply—

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- (a) where, in the opinion of the Presiding Officer, each provision of the Bill which deals with an excepted or reserved matter is ancillary to other provisions (whether in the Bill or previously enacted) dealing with transferred matters only; or
  - (b) on the introduction of a Bill, where the Bill has been endorsed with a statement that the Secretary of State has consented to the Assembly considering the Bill.
- (4) In this section and section 14 “final stage”, in relation to a Bill, means the stage in the Assembly’s proceedings at which the Bill falls finally to be passed or rejected.

## 11 Scrutiny by the [<sup>F8</sup>Supreme Court].

- (1) The Attorney General for Northern Ireland may refer the question of whether a provision of a Bill would be within the legislative competence of the Assembly to the [<sup>F9</sup>Supreme Court] for decision.
- (2) Subject to subsection (3), he may make a reference in relation to a provision of a Bill at any time during—
- (a) the period of four weeks beginning with the passing of the Bill; and
  - (b) the period of four weeks beginning with any subsequent approval of the Bill in accordance with standing orders made by virtue of section 13(6).
- (3) If he notifies the Presiding Officer that he does not intend to make a reference in relation to a provision of a Bill, he shall not make such a reference unless, after the notification, the Bill is approved as mentioned in subsection (2)(b).
- (4) If the [<sup>F10</sup>Supreme Court decides] that any provision of a Bill would be within the legislative competence of the Assembly, [<sup>F11</sup>its decision] shall be taken as applying also to that provision if contained in the Act when enacted.

### Textual Amendments

- F8** Words in sidenote of s. 11 substituted (1.10.2009) by virtue of [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 109\(1\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F9** Words in s. 11(1) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 109\(2\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F10** Words in s. 11(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 109\(3\)\(a\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F11** Words in s. 11(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 109\(3\)\(b\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

## 12 Reconsideration where reference made to ECJ.

- (1) This section applies where—
- (a) a reference has been made under section 11 in relation to a provision of a Bill;
  - (b) a reference for a preliminary ruling has been made by the [<sup>F12</sup>Supreme Court] in connection with that reference; and
  - (c) neither of the references has been decided or otherwise disposed of.
- (2) If the Assembly resolves that it wishes to reconsider the Bill—
- (a) the Presiding Officer shall notify the Attorney General for Northern Ireland and the Attorney General of that fact; and

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- (b) the Attorney General for Northern Ireland shall request the withdrawal of the reference under section 11.
- (3) In this section “reference for a preliminary ruling” means a reference of a question to the European Court of Justice under—
  - (a) Article 177 of the Treaty establishing the European Community;
  - (b) Article 41 of the Treaty establishing the European Coal and Steel Community; or
  - (c) Article 150 of the Treaty establishing the European Atomic Energy Community.

#### Textual Amendments

**F12** Words in s. 12(1)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 110](#); [S.I. 2009/1604](#), [art. 2\(a\)\(d\)](#)

### 13 Stages of Bills.

- (1) Standing orders shall include provision—
  - (a) for general debate on a Bill with an opportunity for members to vote on its general principles;
  - (b) for the consideration of, and an opportunity for members to vote on, the details of a Bill; and
  - (c) for a final stage at which a Bill can be passed or rejected but not amended.
- (2) Standing orders may, in relation to different types of Bill, modify provisions made in pursuance of subsection (1)(a) or (b).
- (3) Standing orders—
  - (a) shall include provision for establishing such a committee as is mentioned in paragraph 11 of Strand One of the Belfast Agreement;
  - (b) may include provision for the details of a Bill to be considered by the committee in such circumstances as may be specified in the orders.
- (4) Standing orders shall include provision—
  - (a) requiring the Presiding Officer to send a copy of each Bill, as soon as reasonably practicable after introduction, to the Northern Ireland Human Rights Commission; and
  - (b) enabling the Assembly to ask the Commission, where the Assembly thinks fit, to advise whether a Bill is compatible with human rights (including the Convention rights).
- (5) Standing orders shall provide for an opportunity for the reconsideration of a Bill after its passing if (and only if)—
  - (a) the [<sup>F13</sup>Supreme Court decides] that any provision of the Bill would not be within the legislative competence of the Assembly;
  - (b) a reference made in relation to a provision of the Bill under section 11 has been withdrawn following a request for withdrawal under section 12;
  - (c) a decision is made in relation to the Bill under section 14(4) or (5); or
  - (d) a motion under section 15(1) is passed by either House of Parliament.



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- (6) Standing orders shall, in particular, ensure that any Bill amended on reconsideration is subject to a final stage at which it can be approved or rejected but not amended.
- (7) References in subsection (5) and other provisions of this Act to the passing of a Bill shall, in the case of a Bill which has been amended on reconsideration, be read as references to the approval of the Bill.

#### Textual Amendments

**F13** Words in s. 13(5)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 111; S.I. 2009/1604, art. 2\(a\)\(d\)](#)

### Royal Assent

#### 14 Submission by Secretary of State.

- (1) It shall be the Secretary of State who submits Bills for Royal Assent.
- (2) The Secretary of State shall not submit a Bill for Royal Assent at any time when—
  - (a) the Attorney General for Northern Ireland is entitled to make a reference in relation to a provision of the Bill under section 11; or
  - (b) any such reference has been made but has not been decided or otherwise disposed of by the [<sup>F14</sup>Supreme Court] .
- (3) If—
  - (a) the [<sup>F15</sup>Supreme Court has] decided that any provision of a Bill would not be within the legislative competence of the Assembly; or
  - (b) a reference made in relation to a provision of the Bill under section 11 has been withdrawn following a request for withdrawal under section 12,the Secretary of State shall not submit the Bill in its unamended form for Royal Assent.
- (4) The Secretary of State may, unless he consents to it, decide not to submit for Royal Assent a Bill containing a provision—
  - (a) which the Secretary of State considers deals with an excepted matter and is ancillary to other provisions (whether in the Bill or previously enacted) dealing with reserved or transferred matters; or
  - (b) which the Secretary of State considers deals with a reserved matter,if the Bill has not been referred to him under subsection (2) of section 10 (whether by virtue of subsection (3)(a) of that section or otherwise) before the Assembly enters on its final stage.
- (5) The Secretary of State may decide not to submit for Royal Assent a Bill which contains a provision which he considers—
  - (a) would be incompatible with any international obligations, with the interests of defence or national security or with the protection of public safety or public order; or
  - (b) would have an adverse effect on the operation of the single market in goods and services within the United Kingdom.

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#### Textual Amendments

- F14** Words in s. 14(2)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 112\(a\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F15** Words in s. 14(3)(a) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 112\(b\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

### 15 Parliamentary control where consent given.

- (1) Subject to subsections (2) and (3), a Bill to which the Secretary of State has consented under this Part shall not be submitted by him for Royal Assent unless he has first laid it before Parliament and either—
  - (a) the period of 20 days beginning with the date on which it is laid has expired without notice having been given in either House of a motion that the Bill shall not be submitted for Royal Assent; or
  - (b) if notice of such a motion is given within that period, the motion has been rejected or withdrawn.
- (2) Subsection (1) shall not apply to a Bill if the Secretary of State considers that it contains no provision which deals with an excepted or reserved matter except a provision which is ancillary to other provisions (whether in the Bill or previously enacted) dealing with transferred matters only.
- (3) Subsection (1) shall not apply to a Bill if the Secretary of State considers that by reason of urgency it should be submitted for Royal Assent without first being laid before Parliament.
- (4) Any Bill submitted by virtue of subsection (3) shall, if given Royal Assent, be laid before Parliament by the Secretary of State after Royal Assent, and if—
  - (a) within the period of 20 days beginning with the date on which it is laid notice is given in either House of a motion praying that the Act of the Assembly shall cease to have effect; and
  - (b) that motion is carried,
 Her Majesty may by Order in Council repeal that Act with effect from such date as may be specified in the Order.
- (5) An Order in Council under subsection (4) may make such consequential and transitional provisions and such savings in connection with the repeal as appear to Her Majesty to be necessary or expedient.
- (6) Any notice of motion for the purposes of subsection (1) or (4) must be signed by not less than 20 members of the House in which it is given; and the period mentioned in that subsection shall be computed, in relation to each House, by reference only to days on which that House sits.

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## PART III

### EXECUTIVE AUTHORITIES

#### Modifications etc. (not altering text)

- C6** Pts. II-IV applied in part (1.1.2007) by [The Equality Act \(Sexual Orientation\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/439\)](#), [reg. 53\(6\)](#)

#### Authorities

#### <sup>F16</sup>**16 First Minister and deputy First Minister.**

#### Textual Amendments

- F16** Ss. 16A-16C substituted (8.5.2007) for s. 16 by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), [ss. 8\(1\), 27\(4\)\(5\)](#) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)): [S.I. 2007/1397](#), [art. 2](#)

#### <sup>F17</sup>**16A Appointment of First Minister, deputy First Minister and Northern Ireland Ministers following Assembly election**

- (1) This section applies where an Assembly is elected under section 31 or 32.
- (2) All Northern Ireland Ministers shall cease to hold office.
- (3) Within a period of seven days beginning with the first meeting of the Assembly—
  - (a) the offices of First Minister and deputy First Minister shall be filled by applying subsections (4) to (7); and
  - (b) the Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).
- (4) The nominating officer of the largest political party of the largest political designation shall nominate a member of the Assembly to be the First Minister.
- (5) The nominating officer of the largest political party of the second largest political designation shall nominate a member of the Assembly to be the deputy First Minister.
- (6) If the persons nominated do not take up office within a period specified in standing orders, further nominations shall be made under subsections (4) and (5).
- (7) Subsections (4) to (6) shall be applied as many times as may be necessary to secure that the offices of First Minister and deputy First Minister are filled.
- (8) But no person may take up office as First Minister, deputy First Minister or Northern Ireland Minister by virtue of this section after the end of the period mentioned in subsection (3) (see further section 32(3)).
- (9) The persons nominated under subsections (4) and (5) shall not take up office until each of them has affirmed the terms of the pledge of office.

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- (10) Subject to the provisions of this Part, the First Minister and the deputy First Minister shall hold office until immediately before those offices are next filled by virtue of this section.
- (11) The holder of the office of First Minister or deputy First Minister may by notice in writing to the Presiding Officer designate a Northern Ireland Minister to exercise the functions of that office—
- (a) during any absence or incapacity of the holder; or
  - (b) during any vacancy in that office arising otherwise than under section 16B(2), but a person shall not have power to act by virtue of paragraph (a) for a continuous period exceeding six weeks.
- (12) This section shall be construed in accordance with, and is subject to, section 16C.

#### Textual Amendments

**F17** Ss. 16A-16C substituted (8.5.2007) for s. 16 by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 8(1), 27(4)(5)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)): [S.I. 2007/1397](#), **art. 2**

#### Modifications etc. (not altering text)

- C7** S. 16A excluded (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 2(2)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)), 27(1), {Sch. 2 para. 2(2)}; [S.I. 2007/1397](#), **art. 2**
- C8** S. 16A(8) excluded (12.3.2009 temp. until 30.4.2012) by Northern Ireland Act 2009, (c. 3), ss. 1, 5, {Sch. 1 para. 7(3)(a)}

## 16B Vacancies in the office of First Minister or deputy First Minister

- (1) The First Minister or the deputy First Minister—
- (a) may at any time resign by notice in writing to the Presiding Officer; and
  - (b) shall cease to hold office if he ceases to be a member of the Assembly otherwise than by virtue of a dissolution.
- (2) If either the First Minister or the deputy First Minister ceases to hold office at any time, whether by resignation or otherwise, the other—
- (a) shall also cease to hold office at that time; but
  - (b) may continue to exercise the functions of his office until immediately before those offices are filled in accordance with this section.
- (3) Where the offices of the First Minister and the deputy First Minister become vacant at any time, they shall be filled by applying subsections (4) to (7) within a period of seven days beginning with that time.
- (4) The nominating officer of the largest political party of the largest political designation shall nominate a member of the Assembly to be the First Minister.
- (5) The nominating officer of the largest political party of the second largest political designation shall nominate a member of the Assembly to be the deputy First Minister.
- (6) If the persons nominated do not take up office within a period specified in standing orders, further nominations shall be made under subsections (4) and (5).

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- (7) Subsections (4) to (6) shall be applied as many times as may be necessary to secure that the offices of First Minister and deputy First Minister are filled.
- (8) But no person may take up office as First Minister or deputy First Minister under this section after the end of the period mentioned in subsection (3) (see further section 32(3)).
- (9) The persons nominated under subsections (4) and (5) shall not take up office until each of them has affirmed the terms of the pledge of office.
- (10) This section shall be construed in accordance with, and is subject to, section 16C.

#### Textual Amendments

**F17** Ss. 16A-16C substituted (8.5.2007) for s. 16 by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 8(1), 27(4)(5)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)): [S.I. 2007/1397](#), **art. 2**

### 16C Sections 16A and 16B: supplementary

- (1) In sections 16A and 16B and this section “nominating officer”, in relation to a party, means—
  - (a) the person registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 as the party's nominating officer; or
  - (b) a member of the Assembly nominated by him for the purposes of this section.
- (2) For the purposes of sections 16A and 16B and this section—
  - (a) the size of a political party is to be determined by reference to the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election; but
  - (b) if two or more parties are taken by virtue of paragraph (a) to be of the same size, the respective sizes of those parties is to be determined by reference to the number of first preference votes cast for the parties at the last general election of members of the Assembly;(this is subject to subsections (7) and (8)).
- (3) For the purposes of sections 16A and 16B and this section, a political party to which one or more members of the Assembly belong is to be taken—
  - (a) to be of the political designation “Nationalist” if, at the relevant time (see subsection (11)), more than half of the members of the Assembly who belonged to the party were designated Nationalists;
  - (b) to be of the political designation “Unionist” if, at the relevant time, more than half of the members of the Assembly who belonged to the party were designated Unionists;
  - (c) otherwise, to be of the political designation “Other”.
- (4) For the purposes of sections 16A and 16B and this section—
  - (a) the size of the political designation “Nationalist” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were designated Nationalists;

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- (b) the size of the political designation “Unionist” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were designated Unionists;
  - (c) the size of the political designation “Other” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were neither designated Nationalists nor designated Unionists.
- (5) But if two or more political designations are taken by virtue of subsection (4) to be of the same size, the respective sizes of those designations is to be determined by reference to the aggregate number of first preference votes cast, at the last general election of members of the Assembly, for members of the Assembly who, at the relevant time, were—
- (a) designated Nationalists (in the case of the political designation “Nationalist”);
  - (b) designated Unionists (in the case of the political designation “Unionist”); or
  - (c) neither designated Nationalists nor designated Unionists (in the case of the political designation “Other”).
- (6) If at any time the party which is the largest political party of the largest political designation is not the largest political party—
- (a) any nomination to be made at that time under section 16A(4) or 16B(4) shall instead be made by the nominating officer of the largest political party; and
  - (b) any nomination to be made at that time under section 16A(5) or 16B(5) shall instead be made by the nominating officer of the largest political party of the largest political designation.
- (7) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
  - (b) the party's period of exclusion (see subsection (12)) under that provision has not come to an end,
- subsection (2)(a) above shall have effect as if the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election was nil.
- (8) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
  - (b) the party's period of exclusion under that provision has not come to an end,
- subsection (2)(a) above shall have effect as if the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election was nil.
- (9) Where—
- (a) a person nominated by the nominating officer of a political party ceased to hold office as First Minister or deputy First Minister as a result of a resolution of the Assembly under section 30(2) or a direction of the Secretary of State under section 30A(5); and
  - (b) the party's period of exclusion under section 30(2) or 30A(5) subsequently comes to an end otherwise than by virtue of the dissolution of the Assembly,
- the First Minister and the deputy First Minister shall cease to hold office when the party's period of exclusion under that provision comes to an end (unless any period of exclusion of the party under the other provision has not come to an end).

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- (10) But where a direction under section 30A(5) ceases to have effect under section 95A(6) or (7), its so ceasing to have effect shall for the purposes of subsection (9) be taken not to involve the coming to an end of a period of exclusion under section 30A(5).
- (11) In this section “the relevant time” means the end of the day on which the Assembly first met following its election.
- (12) In this section, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.
- (13) Standing orders may make further provision in connection with the making of nominations under sections 16A and 16B.
- (14) In this Act “the pledge of office” means the pledge of office which, together with the code of conduct to which it refers, is set out in Schedule 4.]

#### Textual Amendments

- F17** Ss. 16A-16C substituted (8.5.2007) for s. 16 by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 8(1), 27(4)(5)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)): [S.I. 2007/1397](#), **art. 2**

## 17 Ministerial offices.

- (1) The First Minister and the deputy First Minister acting jointly may at any time, and shall where subsection (2) applies, determine—
  - (a) the number of Ministerial offices to be held by Northern Ireland Ministers; and
  - (b) the functions to be exercisable by the holder of each such office.
- (2) This subsection applies where provision is made by an Act of the Assembly for establishing a new Northern Ireland department or dissolving an existing one.
- (3) In making a determination under subsection (1), the First Minister and the deputy First Minister shall ensure that the functions exercisable by those in charge of the different Northern Ireland departments existing at the date of the determination are exercisable by the holders of different Ministerial offices.
- (4) The number of Ministerial offices shall not exceed 10 or such greater number as the Secretary of State may by order provide.
- (5) A determination under subsection (1) shall not have effect unless it is approved by a resolution of the Assembly passed with cross-community support.

#### Modifications etc. (not altering text)

- C9** [S. 17\(5\)](#) excluded (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\)](#), **ss. 1, 5**, **Sch. 1 para. 8(7)** (with [Sch. 1 para. 8\(9\)](#))

## 18 Northern Ireland Ministers.

- (1) Where—

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- (a) <sup>F18</sup> .....
- (b) a determination under section 17(1) takes effect;
- (c) a resolution which causes one or more Ministerial offices to become vacant is passed under section 30(2);
- [<sup>F19</sup>(d) a direction which causes one or more Ministerial offices to become vacant is given under section 30A(5);
- (da) a period of exclusion under section 30(2) or 30A(5) comes to an end; or.]
- (e) such other circumstances obtain as may be specified in standing orders,
- all Northern Ireland Ministers shall cease to hold office and the Ministerial offices shall be filled by applying subsections (2) to (6) within a period so specified.
- (2) The nominating officer of the political party for which the formula in subsection (5) gives the highest figure may select a Ministerial office and nominate a person to hold it who is a member of the party and of the Assembly.
- (3) If—
- (a) the nominating officer does not exercise the power conferred by subsection (2) within a period specified in standing orders; or
- (b) the nominated person does not take up the selected Ministerial office within that period,
- that power shall become exercisable by the nominating officer of the political party for which the formula in subsection (5) gives the next highest figure.
- (4) Subsections (2) and (3) shall be applied as many times as may be necessary to secure that each of the Ministerial offices is filled.
- (5) The formula is—

$$\frac{S}{1 + M}$$

where—

S = the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election;

M = the number of Ministerial offices (if any) which are held by members of the party.

- (6) Where the figures given by the formula for two or more political parties are equal, each of those figures shall be recalculated with S being equal to the number of first preference votes cast for the party at the last general election of members of the Assembly.
- (7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold a Ministerial office.
- (8) A Northern Ireland Minister shall not take up office until he has affirmed the terms of the pledge of office.
- (9) A Northern Ireland Minister shall cease to hold office if—
- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;



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- (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or
  - (c) he is dismissed by the nominating officer who nominated him (or that officer's successor) and the Presiding Officer is notified of his dismissal.
- (10) Where a Ministerial office is vacant otherwise than by virtue of subsection (1), the nominating officer of the party on whose behalf the previous incumbent was nominated may nominate a person to hold the office who is a member of the party and of the Assembly.
- (11) If—
- (a) the nominating officer does not exercise the power conferred by subsection (10) within a period specified in standing orders; or
  - (b) the nominated person does not take up the office within that period,
- the vacancy shall be filled by applying subsections (2) to (6) within a period specified in standing orders.
- (12) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
  - (b) the party's period of exclusion [<sup>F20</sup>under that provision] has not come to an end,
- the party shall be disregarded for the purposes of any application of subsections (2) to (6).
- [<sup>F21</sup>(12A) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
  - (b) the party's period of exclusion under that provision has not come to an end,
- the party shall be disregarded for the purposes of any application of subsections (2) to (6).]
- [<sup>F22</sup>(12B) Where a direction under section 30A(5) ceases to have effect under section 95A(6) or (7), its so ceasing to have effect shall for the purposes of subsection (1)(da) be taken not to involve the coming to an end of a period of exclusion under section 30A(5).]
- [<sup>F23</sup>(13) In this section “nominating officer”, in relation to a party, means—
- (a) the person registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 as the party's nominating officer; or
  - (b) a member of the Assembly nominated by him for the purposes of this section.]

[<sup>F24</sup>(14) In this section, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.]

#### Textual Amendments

**F18** S. 18(1)(a) omitted (8.5.2007) by virtue of Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 2(2)} (with s. 1(3)); S.I. 2007/1397, art. 2

**F19** S. 18(1)(d)(da) substituted (7.1.2004) for s. 18(1)(d) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 5(2), 12; S.I. 2004/83, art. 2

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- F20** Words in s. 18(12)(b) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 5(3)**, 12; S.I. 2004/83, **art. 2**
- F21** S. 18(12A) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 5(4)**, 12; S.I. 2004/83, **art. 2**
- F22** S. 18(12B) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 10(2)**, 12, S.I. 2004/83, {art. 2}
- F23** S. 18(13) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 2(2)**, 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), Sch. 5 para. 2(3) (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F24** S. 18(14) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 5(5)**, 12; S.I. 2004/83, **art. 2**

**Modifications etc. (not altering text)**

- C10** S. 18(1)(b) excluded (12.3.2009) by Northern Ireland Act 2009 (c. 3), **ss. 1, 5**, **Sch. 1 para. 6**
- C11** S. 18(2)-(6) applied (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 2(2)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), 27(1), {Sch. 2 para. 2(5)(6)}; S.I. 2007/1397, **art. 2**
- C12** S. 18(10) applied (12.2.2000) by 2000 c. 1, **s. 3(7)(a)**; S.I. 2000/396, **art. 2**

**19 Junior Ministers.**

- (1) The First Minister and the deputy First Minister acting jointly may at any time determine—
- (a) that a number of members of the Assembly specified in the determination shall be appointed as junior Ministers in accordance with such procedures for their appointment as are so specified; and
  - (b) that the functions exercisable by virtue of each junior Ministerial office shall be those specified in relation to that office in the determination.
- (2) Procedures specified in a determination under this section may apply such formulae or other rules as the First Minister and the deputy First Minister consider appropriate.
- (3) A determination under this section shall—
- (a) make provision as to the circumstances in which a junior Minister shall cease to hold office, and for the filling of vacancies; and
  - (b) provide that a junior Minister shall not take up office until he has affirmed the terms of the pledge of office.
- (4) A determination under this section shall not take effect until it has been approved by a resolution of the Assembly.
- (5) Where a determination under this section takes effect—
- (a) any junior Ministers previously appointed shall cease to hold office; and
  - (b) the procedures specified in the determination shall be applied within a period specified in standing orders.

**Modifications etc. (not altering text)**

- C13** S. 19(3)(a) applied (12.2.2000) by 2000 c. 1, **s. 3(7)(b)**; S.I. 2000/396, **art. 2**

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<sup>F25</sup>  
<sup>F26</sup> **19A Disqualification for certain offices which may be held by members of the Assembly.**

- (1) No person may—
  - <sup>F27</sup>(a) be nominated to hold the office of First Minister or deputy First Minister or a Ministerial office to be held by a Northern Ireland Minister,]
  - (c) be appointed as a junior Minister, or
  - (d) be nominated under paragraph 7 of Schedule 1 to the Police (Northern Ireland) Act 2000 (members of the Northern Ireland Policing Board drawn from the Northern Ireland Assembly),  
if he is the holder of a disqualifying office.
- (2) A Minister or junior Minister ceases to hold that office on becoming the holder of a disqualifying office.
- (3) A person holding office as a member of the Northern Ireland Policing Board in accordance with paragraph 7 of Schedule 1 to the Police (Northern Ireland) Act 2000 ceases to hold that office on becoming the holder of a disqualifying office.
- (4) In this section “disqualifying office” means—
  - (a) Minister of the Government of Ireland; or
  - (b) chairman or deputy chairman of—
    - (i) a committee of the Dáil Éireann (House of Representatives of Ireland);
    - (ii) a committee of the Seanad Éireann (Senate of Ireland); or
    - (iii) a joint committee of the Oireachtas (National Parliament of Ireland).]

**Textual Amendments**

**F25** S. 19A inserted (30.11.2000) by 2000 c. 42, s. 2

**F26** S. 19A inserted (30.11.2000) by 2000 c. 42, s. 2

**F27** S. 19A(1)(a) substituted for s. 19A(1)(a)(b) (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 3} (with s. 1(3)); S.I. 2007/1397, art. 2

**20 The Executive Committee.]**

- (1) There shall be an Executive Committee of each Assembly consisting of the First Minister, the deputy First Minister and the Northern Ireland Ministers.
- (2) The First Minister and the deputy First Minister shall be chairmen of the Committee.
- (3) The Committee shall have the functions set out in paragraphs 19 and 20 of Strand One of the Belfast Agreement.
- <sup>F28</sup>(4) The Committee shall also have the function of discussing and agreeing upon—
  - (a) significant or controversial matters that are clearly outside the scope of the agreed programme referred to in paragraph 20 of Strand One of that Agreement;
  - (b) significant or controversial matters that the First Minister and deputy First Minister acting jointly have determined to be matters that should be considered by the Executive Committee.]

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### Textual Amendments

- F25** S. 19A inserted (30.11.2000) by 2000 c. 42, s. 2  
**F28** S. 20(4) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 5(1), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

## 21 Northern Ireland departments.

- (1) Subject to subsection (2), the Northern Ireland departments existing on the appointed day shall be the Northern Ireland departments for the purposes of this Act.
- (2) Provision may be made by Act of the Assembly for establishing new Northern Ireland departments or dissolving existing ones.
- (3) If an Act of the Assembly which establishes a new Northern Ireland department provides for it to be in the charge of the First Minister and the deputy First Minister acting jointly—
  - (a) the department shall not be regarded as a Northern Ireland department for the purposes of subsection (2) or (3) of section 17; and
  - (b) the office held by those Ministers as the head of the department shall not be regarded as a Ministerial office for the purposes of subsection (4) of that section or section 18.

### [<sup>F29</sup>21A Northern Ireland department with policing and justice functions

- (1) An Act of the Assembly that—
  - (a) establishes a new Northern Ireland department; and
  - (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions,
 may (but need not) make provision of the kind mentioned in subsection (3) [<sup>F30</sup>, (3A)], (4), (5) or (5A).
- (3) The Act may provide for the department to be in the charge of a Northern Ireland Minister appointed by virtue of a nomination—
  - (a) made by the First Minister and the deputy First Minister acting jointly; and
  - (b) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

[ The Act may provide for the department to be in the charge of a Northern Ireland  
<sup>F31</sup>(3A) Minister appointed by virtue of a nomination—

- (a) made by one or more members of the Assembly, and
  - (b) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.]
- (4) The Act may provide for the department to be in the charge of two Northern Ireland Ministers acting jointly.

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- (5) The Act may provide—
- (a) for the department to be in the charge of a Northern Ireland Minister who is supported by a junior Minister; and
  - (b) for the persons holding those offices to rotate at intervals determined by or under the Act, so that the person who was the Minister in charge of the department becomes the junior Minister and the person who was the junior Minister becomes the Minister.
- (5A) The Act may provide—
- (a) for the department to be in the charge of a Northern Ireland Minister elected by the Assembly; and
  - (b) for that Minister to be supported by a deputy Minister elected by the Assembly.
- (6) There must not, at any time, be more than one department in relation to which provision of the kind mentioned in any of subsections (3) [<sup>F30</sup>, (3A)], (4), (5) and (5A) is made by Act of the Assembly, or by Order in Council under subsection (7C).
- (7) Schedule 4A (provisions relating to a department with devolved policing and justice functions) shall have effect.
- (7A) If it appears to the Secretary of State that there is no reasonable prospect that the Assembly will pass an Act of the kind described in subsection (1)(a) and (b), he may lay before Parliament the draft of an Order in Council which—
- (a) establishes a new Northern Ireland department;
  - (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions;
  - (c) provides for the department to be in the charge of a Northern Ireland Minister elected by the Assembly and for that Minister to be supported by a deputy Minister elected by the Assembly; and
  - (d) provides for Part 3A of Schedule 4A to apply in relation to the department (with any necessary modifications).
- (7B) The draft of an Order laid before Parliament under subsection (7A) may contain supplementary, incidental, consequential, transitional or saving provision.
- (7C) If the draft of an Order laid before Parliament under subsection (7A) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.
- (7D) No more than one department may be established by virtue of an Order under subsection (7C).
- (8) In this section “devolved policing and justice function” means a function relating to a matter which—
- (a) is a transferred matter by virtue of an Order under section 4; and
  - (b) immediately before the matter became a transferred matter, was a policing and justice matter (within the meaning given by section 4(6)).]

#### Textual Amendments

**F29** S. 21A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 17(1), 31 (as amended (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(7), 27(4)(5) (with s. 1(3)) (as amended by Northern Ireland (St. Andrews Agreement) Act 2007 (c. 4), s.

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- 1(1)); S.I. 2007/1397, **art. 2**) (and as further amended (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44, 53; S.I. 2009/446, art. 3); S.I. 2009/448, **art. 2**
- F30** Words in s. 21A(1)(6) inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 3(2)**
- F31** S. 21A(3A) inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 3(3)**

### [<sup>F32</sup>21B Section 21A(5A) and (7C): transitional provision

- (1) This section has effect in relation to—
- (a) the first Act of the Assembly to establish a new Northern Ireland department [<sup>F33</sup>the purpose of which is to exercise functions consisting wholly or mainly of devolved policing and justice functions but only if the Act makes provision of the kind mentioned in section 21A(5A) (other than by virtue of paragraph 8(5) of Schedule 1 to the Northern Ireland Act 2009)] ; or
  - (b) an Order in Council under section 21A(7C) establishing a new Northern Ireland department.
- (2) The Act or the Order may include provision for or in connection with securing that the department is to be treated, for the purposes of section 17, as not having been established until the time at which devolved policing and justice functions are first transferred to, or conferred on, the department (“the time of devolution”).
- (3) The Act or the Order may include provision for or in connection with applying paragraph 11E(3) to (6) of Schedule 4A (with any necessary modifications) to enable elections to be held, before the time of devolution, to select—
- (a) a member of the Assembly (“the relevant Minister designate”) to be the person who is to hold the relevant Ministerial office as from the time of devolution; and
  - (b) a member of the Assembly (“the deputy Minister designate”) to be the person who is to hold the deputy Ministerial office as from that time.
- (4) Where the Act or the Order includes provision by virtue of subsection (3), it shall secure that (notwithstanding paragraph 11E(1) of Schedule 4A)—
- (a) if the relevant Minister designate affirms the terms of the pledge of office within a specified period after the time of devolution, he shall become the relevant Minister;
  - (b) if the deputy Minister designate affirms the terms of the pledge of office within that period, he shall (subject to paragraph (c)) become the deputy Minister;
  - (c) if the relevant Minister designate does not affirm the terms of the pledge of office within that period—
    - (i) he shall not become the relevant Minister; and
    - (ii) paragraph 11E(10) and (11) of Schedule 4A shall apply as if the relevant Minister had ceased to hold office at the end of that period otherwise than by virtue of section 16A(2);
  - (d) if the deputy Minister designate does not affirm the terms of the pledge of office within that period—
    - (i) he shall not become the deputy Minister; and
    - (ii) paragraph 11E(10) of Schedule 4A shall apply as if the deputy Minister had ceased to hold office at the end of that period otherwise than by virtue of section 16A(2).

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- (5) In this section “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).
- (6) In this section “relevant Minister”, “relevant Ministerial office”, “deputy Minister” and “deputy Ministerial office” have the same meaning as in Part 3A of Schedule 4A.]

#### Textual Amendments

- F32** S. 21B inserted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44(6), 53; S.I. 2009/446, art. 3(2)(a)
- F33** Words in s. 21B(1)(a) substituted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, Sch. 1 para. 9

### [<sup>F34</sup>21C Section 21A(5A) and (7C): power of Assembly to secure retention or abolition of deputy Ministerial office

- (1) This section applies if [<sup>F35</sup>the first Northern Ireland department the purpose of which is to exercise functions consisting wholly or mainly of devolved policing and justice functions (as defined in section 21A(8))] is established—
- (a) by an Act of the Assembly which makes provision of the kind mentioned in section 21A(5A) [<sup>F36</sup>(other than by virtue of paragraph 8(5) of Schedule 1 to the Northern Ireland Act 2009)] ; or
- (b) by an Order in Council under section 21A(7C).
- (2) Standing orders shall require the committee established by virtue of section 29A to consider the operation of the Ministerial arrangements provided for by Part 3A of Schedule 4A.
- (3) The committee shall, by no later than two years and ten months after the time at which devolved policing and justice functions are first transferred to, or conferred on, the department (“the time of devolution”), make a report on the operation of the Ministerial arrangements provided for by Part 3A of Schedule 4A—
- (a) to the Assembly; and
- (b) to the Executive Committee,
- and the report must include a recommendation as to whether or not the deputy Ministerial office (see subsection (8)) should be retained.
- (4) If before the end of the period of three years beginning with the time of devolution (“the initial period”) the Assembly resolves that the deputy Ministerial office should be abolished at a time specified in the resolution (before the end of the initial period), the Secretary of State shall make an order abolishing the deputy Ministerial office (see subsection (9)) at, or as soon as reasonably practicable after, the time specified.
- (5) If—
- (a) subsection (4) does not apply; and
- (b) the Assembly does not resolve, before the end of the initial period, that the deputy Ministerial office should be retained for an additional period ending after the initial period,
- the Secretary of State shall make an order abolishing the deputy Ministerial office as soon as reasonably practicable after the end of the initial period.
- (6) If—

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- (a) subsection (4) does not apply;
  - (b) the Assembly resolves that the deputy Ministerial office should be retained for an additional period ending after the initial period or for one or more further additional periods; and
  - (c) one of those additional periods ends without a further additional period having begun,
- the Secretary of State shall make an order abolishing the deputy Ministerial office as soon as reasonably practicable after the end of that period.
- (7) A resolution of the Assembly under this section shall not be passed without the support of—
- (a) a majority of the members voting on the motion for the resolution;
  - (b) a majority of the designated Nationalists voting; and
  - (c) a majority of the designated Unionists voting.
- (8) In this section “deputy Ministerial office” has the same meaning as in Part 3A of Schedule 4A.
- (9) In this section references to an order abolishing the deputy Ministerial office are to an order amending this Act and any other enactment so far as may be necessary to secure that the Northern Ireland Minister in charge of the department for the time being—
- (a) is not to be supported by a deputy Minister (within the meaning of Part 3A of Schedule 4A); and
  - (b) need not belong to the largest or the second largest political designation (within that meaning).
- (10) An order under this section—
- (a) shall be made by statutory instrument; and
  - (b) may contain supplementary, incidental, consequential, transitional or saving provision.]

#### Textual Amendments

- F34** S. 21C inserted (11.3.2009) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 44\(7\), 53; S.I. 2009/446, art. 3\(2\)\(a\)](#)
- F35** Words in s. 21C(1) substituted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\), ss. 1, 5, Sch. 1 para. 10\(a\)](#)
- F36** Words in s. 21C(1)(a) inserted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\), ss. 1, 5, Sch. 1 para. 10\(b\)](#)

### Functions

#### 22 Statutory functions.

- (1) An Act of the Assembly or other enactment may confer functions on a Minister (but not a junior Minister) or a Northern Ireland department by name.
- (2) Functions conferred on a Northern Ireland department by an enactment passed or made before the appointed day shall, except as provided by an Act of the Assembly or other subsequent enactment, continue to be exercisable by that department.



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## 23 Prerogative and executive powers.

- (1) The executive power in Northern Ireland shall continue to be vested in Her Majesty.
- (2) As respects transferred matters, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall, subject to subsection (3), be exercisable on Her Majesty's behalf by any Minister or Northern Ireland department.
- (3) As respects the Northern Ireland Civil Service and the Commissioner for Public Appointments for Northern Ireland, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall be exercisable on Her Majesty's behalf by the First Minister and the deputy First Minister acting jointly.
- (4) The First Minister and deputy First Minister acting jointly may by prerogative order under subsection (3) direct that such of the powers mentioned in that subsection as are specified in the order shall be exercisable on Her Majesty's behalf by a Northern Ireland Minister or Northern Ireland department so specified.

## 24 Community law, Convention rights etc.

- (1) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act—
  - (a) is incompatible with any of the Convention rights;
  - (b) is incompatible with Community law;
  - (c) discriminates against a person or class of person on the ground of religious belief or political opinion;
  - (d) in the case of an act, aids or incites another person to discriminate against a person or class of person on that ground; or
  - (e) in the case of legislation, modifies an enactment in breach of section 7.
- (2) Subsection (1)(c) and (d) does not apply in relation to any act which is unlawful by virtue of the [<sup>F37</sup>Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of [<sup>F37</sup>Part VIII of that Order].

### Textual Amendments

**F37** Words in s. 24(2) substituted (1.3.1999) by [S.I. 1998/3162 \(N.I. 21\)](#), [art. 105\(1\)](#), [Sch. 3](#); [S.R. 1999/81](#), [art. 3\(1\)](#)

## 25 Excepted and reserved matters.

- (1) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision dealing with an excepted or reserved matter, the Secretary of State may by order revoke the legislation.
- (2) An order made under subsection (1) shall recite the reasons for revoking the legislation and may make provision having retrospective effect.

## 26 International obligations.

- (1) If the Secretary of State considers that any action proposed to be taken by a Minister or Northern Ireland department would be incompatible with any international

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obligations, with the interests of defence or national security or with the protection of public safety or public order, he may by order direct that the proposed action shall not be taken.

- (2) If the Secretary of State considers that any action capable of being taken by a Minister or Northern Ireland department is required for the purpose of giving effect to any international obligations, of safeguarding the interests of defence or national security or of protecting public safety or public order, he may by order direct that the action shall be taken.
- (3) In subsections (1) and (2), “action” includes making, confirming or approving subordinate legislation and, in subsection (2), includes introducing a Bill in the Assembly.
- (4) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision which the Secretary of State considers—
  - (a) would be incompatible with any international obligations, with the interests of defence or national security or with the protection of public safety or public order; or
  - (b) would have an adverse effect on the operation of the single market in goods and services within the United Kingdom,the Secretary of State may by order revoke the legislation.
- (5) An order under this section shall recite the reasons for making the order and may make provision having retrospective effect.

## **27 Quotas for purposes of international etc obligations.**

- (1) A Minister of the Crown may make an order containing provision such as is specified in subsection (2) where—
  - (a) an international obligation or an obligation under Community law is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise); and
  - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which is or includes the whole or part of Northern Ireland).
- (2) The provision referred to in subsection (1) is provision for the achievement by a Minister or Northern Ireland department (in the exercise of his or its functions) of so much of the result to be achieved under the international obligation or obligation under Community law as is specified in the order.
- (3) The order may specify the time by which any part of the result to be achieved by the Minister or department is to be achieved.
- (4) Where an order under subsection (1) is in force in relation to an international obligation or an obligation under Community law, the obligation shall have effect for the purposes of this Act as if it were an obligation to achieve so much of the result to be achieved under the obligation as is specified in the order by the time or times so specified.
- (5) No order shall be made by a Minister of the Crown under subsection (1) unless he has consulted the Minister or department concerned.

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## 28 Agency arrangements between UK and NI departments.

- (1) Arrangements may be made between—
  - (a) any department of the Government of the United Kingdom or any public body, or holder of a public office, in the United Kingdom; and
  - (b) any Northern Ireland department,for any functions of one of them to be discharged by, or by officers of, the other.
- (2) No such arrangements shall affect the responsibility of the person on whose behalf any functions are discharged.
- (3) In this section—
  - (a) references to a department of the Government of the United Kingdom include references to any Minister of the Crown; and
  - (b) references to a Northern Ireland department include references to a Minister.

### Modifications etc. (not altering text)

**C14** S. 28 modified (7.4.2005 at 5:45 pm) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 15(2), S.I. 2005/1126, {art. 2}

### <sup>F38</sup> Ministerial Code

### Textual Amendments

**F38** S. 28A and preceding cross-heading inserted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), ss. 2(2), 5(2), 27(4)(5) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

## 28A Ministerial Code

- (1) Without prejudice to the operation of section 24, a Minister or junior Minister shall act in accordance with the provisions of the Ministerial Code.
- (2) In this section “the Ministerial Code” means—
  - (a) the Ministerial Code that becomes the Ministerial Code for the purposes of this section by virtue of paragraph 4 of Schedule 1 to the Northern Ireland (St Andrews Agreement) Act 2006 (as from time to time amended in accordance with this section); or
  - (b) any replacement Ministerial Code prepared and approved in accordance with this section (as from time to time amended in accordance with this section).
- (3) If at any time the Executive Committee—
  - (a) prepares draft amendments to the Ministerial Code; or
  - (b) prepares a draft Ministerial Code to replace the Ministerial Code,the First Minister and deputy First Minister acting jointly shall lay the draft amendments or the draft Code before the Assembly for approval.
- (4) A draft Ministerial Code or a draft amendment to the Code—
  - (a) shall not be approved by the Assembly without cross-community support; and

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- (b) shall not take effect until so approved.
- (5) The Ministerial Code must include provision for requiring Ministers or junior Ministers to bring to the attention of the Executive Committee any matter that ought, by virtue of section 20(3) or (4), to be considered by the Committee.
- (6) The Ministerial Code must include provision for a procedure to enable any Minister or junior Minister to ask the Executive Committee to determine whether any decision that he is proposing to take, or has taken, relates to a matter that ought, by virtue of section 20(3) or (4), to be considered by the Committee.
- (7) The Ministerial Code must also include provision as to the procedures of the Executive Committee with respect to—
- (a) the taking of decisions; and
  - (b) consideration by the Committee of decision papers that are to be considered by the North-South Ministerial Council or the British-Irish Council.
- (8) The Ministerial Code must in particular provide—
- (a) that it is the duty of the chairmen of the Executive Committee to seek to secure that decisions of the Executive Committee are reached by consensus wherever possible;
  - (b) that, if consensus cannot be reached, a vote may be taken; and
  - (c) that, if any three members of the Executive Committee require the vote on a particular matter which is to be voted on by the Executive Committee to require cross-community support, any vote on that matter in the Executive Committee shall require cross-community support in the Executive Committee.
- (9) The Ministerial Code may include such other provisions as the Executive Committee thinks fit.
- (10) Without prejudice to the operation of section 24, a Minister or junior Minister has no Ministerial authority to take any decision in contravention of a provision of the Ministerial Code made under subsection (5).]

*<sup>F39</sup>Power to refer Ministerial decision to Executive Committee*

**Textual Amendments**

**F39** S. 28B and preceding cross-heading inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 6, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

**28B Power to refer Ministerial decision to Executive Committee**

- (1) This section applies if 30 members petition the Assembly expressing concern that a decision taken by a Minister or junior Minister (“the Ministerial decision”)—
- (a) may have been taken in contravention of section 28A(1); or
  - (b) relates to a matter of public importance.
- (2) But this section does not apply if the Ministerial decision has previously been the subject of a reference under this section.

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- (3) If the Presiding Officer, after consulting the political parties whose members hold seats in the Assembly, certifies that the Ministerial decision relates to a matter of public importance, he shall refer the decision to the Executive Committee for its consideration.
- (4) Having considered the reference, the Executive Committee shall notify the Presiding Officer—
  - (a) whether or not the decision was, in its view, taken in contravention of section 28A(1);
  - (b) whether or not the decision relates, in its view, to a significant or controversial matter; and
  - (c) as to any action that the Executive Committee proposes to take, or has taken, in relation to the decision.
- (5) No reference may be made under this section after the end of the period of seven days beginning with—
  - (a) the day on which the Ministerial decision was taken; or
  - (b) if appropriate, the day on which the decision was notified to the Assembly.
- (6) Any consideration by the Executive Committee of a Ministerial decision under this section must be completed before the end of the period of seven days beginning with the day on which the reference is made.
- (7) Standing orders shall make provision with respect to the procedure to be followed—
  - (a) in petitioning the Assembly under subsection (1); and
  - (b) in making a reference under this section.
- (8) The periods mentioned in subsections (5) and (6) shall be computed by reference only to days on which the Assembly sits.]

*<sup>F40</sup>Executive Committee: further provisions*

#### Textual Amendments

**F40** S. 28C and preceding cross-heading inserted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\), ss. 2\(2\), 14, 27\(4\)\(5\)](#) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\), s. 1\(1\)](#)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

### 28C Power of Executive Committee to call for witnesses and documents

Section 44 applies to the Executive Committee as it applies to the Assembly, but as if—

- (a) in subsection (1), for “any person” there were substituted “a senior officer of a Northern Ireland department (within the meaning given by Article 2(3) of the Departments (Northern Ireland) Order 1999)”;
- (b) at the end of that subsection there were inserted “but only in so far as they are matters in relation to which the Executive Committee's functions under section 20(3) or (4) are exercisable”;
- (c) subsection (6) were omitted; and
- (d) in subsection (7), for “The Presiding Officer” there were substituted “The First Minister and the deputy First Minister acting jointly”.]

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### [<sup>F41</sup>28D Strategies relating to Irish language and Ulster Scots language etc

- (1) The Executive Committee shall adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language.
- (2) The Executive Committee shall adopt a strategy setting out how it proposes to enhance and develop the Ulster Scots language, heritage and culture.
- (3) The Executive Committee—
  - (a) must keep under review each of the strategies; and
  - (b) may from time to time adopt a new strategy or revise a strategy.]

#### Textual Amendments

**F41** S. 28D inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 15, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

### [<sup>F42</sup>28E Strategy relating to poverty, social exclusion etc

- (1) The Executive Committee shall adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need.
- (2) The Executive Committee—
  - (a) must keep under review the strategy; and
  - (b) may from time to time adopt a new strategy or revise the strategy.]

#### Textual Amendments

**F42** S. 28E inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 16, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

### *Miscellaneous*

## 29 Statutory committees.

- (1) Standing orders shall make provision—
  - (a) for establishing committees of members of the Assembly (“statutory committees”)
    - [<sup>F43</sup>(i) to advise and assist the First Minister and the deputy First Minister in the formulation of policy with respect to matters within their responsibilities as Ministers jointly in charge of the Office of the First Minister and deputy First Minister, and
    - (ii) ]to advise and assist each Northern Ireland Minister in the formulation of policy with respect to matters within his responsibilities as a Minister;
  - (b) for enabling a committee to be so established either in relation to a single Northern Ireland Minister or in relation to more than one; and

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- (c) conferring on the committees the powers described in paragraph 9 of Strand One of the Belfast Agreement.
- (2) Standing orders shall provide that—
- (a) the nominating officer of the political party for which the formula in subsection (3) gives the highest figure may select a statutory committee and nominate as its chairman or deputy chairman a person who is a member of the party and of the Assembly;
- (b) if the nominating officer does not exercise the power conferred by paragraph (a) within a period specified in standing orders, or the nominated person does not take up the selected office within that period, that power shall be exercisable instead by the nominating officer of the political party for which the formula in subsection (3) gives the next highest figure; and
- (c) paragraphs (a) and (b) shall be applied as many times as may be necessary to secure that a chairman and deputy chairman are nominated for each of the statutory committees.
- (3) The formula is—

$$\frac{S}{1 + C}$$

where—

S = the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election;

C = the number of chairmen and deputy chairmen of statutory committees (if any) who are members of the party.

- (4) Standing orders shall provide that, where the figures given by the formula for two or more political parties are equal, each of those figures shall be recalculated with S being equal to the number of first preference votes cast for the party at the last general election of members of the Assembly.
- (5) Standing orders shall provide that—
- (a) a Minister or junior Minister may not be the chairman or deputy chairman of a statutory committee; and
- (b) in making a selection under the provision made by virtue of subsection (2) (a), a nominating officer shall prefer a committee in which he does not have a party interest to one in which he does.

[<sup>F44</sup>(5A) A member of the Assembly who is—

- (a) a Minister of the Government of Ireland, or
- (b) chairman or deputy chairman of—
- (i) a committee of the Dáil ÿireann (House of Representatives of Ireland),
- (ii) a committee of the Seanad ÿireann (Senate of Ireland), or
- (iii) a joint committee of the Oireachtas (National Parliament of Ireland),
- may not be the chairman or deputy chairman of a statutory committee.]

- (6) For the purposes of subsection (5) a nominating officer has a party interest in a committee if

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- [<sup>F45</sup>(a) it is established to advise and assist the First Minister and the deputy First Minister and either of those Ministers is a member of his party; or
- (b) it is established to advise and assist a Northern Ireland Minister and that Minister is a member of his party.]
- (7) Standing orders shall provide that a chairman or deputy chairman shall cease to hold office if—
- (a) he resigns by notice in writing to the Presiding Officer;
- (b) he ceases to be a member of the Assembly; or
- (c) he is dismissed by the nominating officer who nominated him (or that officer’s successor) and the Presiding Officer is notified of his dismissal.
- (8) Standing orders shall provide that, where an office of chairman or deputy chairman is vacant, the nominating officer of the party on whose behalf the previous incumbent was nominated may nominate a person to hold the office who is a member of the party and of the Assembly.
- (9) Standing orders shall provide that if—
- (a) the nominating officer does not exercise the power conferred by subsection (8) within a period specified in standing orders; or
- (b) the nominated person does not take up the selected office within that period, the vacancy shall be filled by applying the provision made by virtue of subsections (2) to (5).
- (10) In this section “nominating officer” has the same meaning as in section 18.

#### Textual Amendments

- F43** Words in s. 29(1)(a) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 10(2), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2
- F44** S. 29(5A) inserted (30.11.2000) by 2000 c. 42, s. 3(1)
- F45** S. 29(6)(a)(b) substituted for words (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 10(3), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

#### Modifications etc. (not altering text)

- C15** S. 29 modified (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), 27(4)(5) {Sch. 2 para. 5} (with s. 1(3)); S.I. 2007/1397, art. 2
- C16** S. 29(8) applied (12.2.2000) by 2000 c. 1, s. 3(7)(c); S.I. 2000/396, art. 2

#### [<sup>F46</sup>29A Committee to review functioning of Assembly and Executive Committee

- (1) Standing orders shall make provision—
- (a) for establishing a committee to examine such matters relating to the functioning of the Assembly and the Executive Committee as may be specified in the standing orders;
- (b) in relation to the membership of the committee; and
- (c) for regulating proceedings of the committee.



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- (2) Standing orders shall provide for the committee to make reports—
  - (a) to the Assembly; and
  - (b) to the Executive Committee.
- (3) The committee shall, by no later than 1 May 2015, make a report on the operation of the provisions of Parts 3 and 4 of this Act—
  - (a) to the Secretary of State;
  - (b) to the Assembly; and
  - (c) to the Executive Committee.

#### Textual Amendments

**F46** Ss. 29A-29B inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 11(1), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

### 29B Review of operation of sections 16A to 16C

- (1) Standing orders shall require the committee established by virtue of section 29A to consider—
  - (a) the operation of sections 16A to 16C; and
  - (b) in particular, whether to recommend that the Secretary of State should make an order amending this Act and any other enactment so far as may be necessary to secure that they have effect, as from the date of the election of the 2011 Assembly, as if the executive selection amendments had not been made.
- (2) In subsection (1)—

“the 2011 Assembly” means the Assembly due to be elected under section 31 in 2011;

“the executive selection amendments” means the amendments made by section 8 of, and paragraphs 1, 2(1) and (2) and 3 to 14 of Schedule 5 to, the Northern Ireland (St Andrews Agreement) Act 2006.]

#### Textual Amendments

**F46** Ss. 29A-29B inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 11(1), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

### 30 Exclusion of Ministers from office.

- (1) If the Assembly resolves that a Minister or junior Minister no longer enjoys the confidence of the Assembly—
  - (a) because he is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) because of any failure of his to observe any other terms of the pledge of office, he shall be excluded from holding office as a Minister or junior Minister for [<sup>F47</sup>such period of not less than three months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide] .

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- [<sup>F48</sup>(1A) The Assembly may, before a period of exclusion under subsection (1) [<sup>F49</sup>or section 30A(2)] comes to an end, by resolution extend it until the end of such period of not less than three months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide.]
- (2) If the Assembly resolves that a political party does not enjoy the confidence of the Assembly—
- (a) because it is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) because it is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office, members of that party shall be excluded from holding office as Ministers or junior Ministers for [<sup>F50</sup>such period of not less than six months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide] .
- [<sup>F51</sup>(3) The Assembly may, before a period of exclusion under subsection (2) [<sup>F52</sup>or section 30A(5)] comes to an end, by resolution extend it until the end of such period of not less than six months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide.]
- (4) A period of exclusion [<sup>F53</sup>under subsection (1) or (2)] shall come to an end if the Assembly—
- (a) is dissolved; or
  - (b) resolves to bring the exclusion to an end.
- (5) A motion for a resolution under this section shall not be moved unless—
- (a) it is supported by at least 30 members of the Assembly;
  - (b) it is moved by the First Minister and the deputy First Minister acting jointly; or
  - (c) it is moved by the Presiding Officer in pursuance of a notice under subsection (6).
- [<sup>F54</sup>(6) If the Secretary of State is of the opinion that the Assembly ought to consider a resolution under this section, he shall serve a notice on the Presiding Officer requiring him to move a motion for such a resolution.
- (7) In forming an opinion under subsection (6), the Secretary of State shall in particular take into account—
- (a) whether the person or party concerned is committed to the use now and in the future of only democratic and peaceful means to achieve his or its objectives;
  - (b) whether he or it has ceased to be involved in any acts of violence or of preparation for violence;
  - (c) whether he or it is directing or promoting acts of violence by other persons;
  - (d) whether he or it is co-operating fully with any Commission of the kind referred to in section 7 of the Northern Ireland Arms Decommissioning Act 1997 in implementing the Decommissioning section of the Belfast Agreement; and
  - (e) any recommendation about steps the Assembly might consider taking which is contained in a report—
    - (i) made by the Commission mentioned in section 1 of the Northern Ireland (Monitoring Commission etc.) Act 2003, or
    - (ii) made under the agreement establishing that Commission by members of that Commission.]

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(8) A resolution under this section shall not be passed without cross-community support.

[<sup>F55</sup>(9) In this section a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.]

#### Textual Amendments

- F47** Words in s. 30(1) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 4(2), 12; S.I. 2004/83, art. 2
- F48** S. 30(1A) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 4(3), 12; S.I. 2004/83, art. 2
- F49** Words in s. 30(1A) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 5(6)(a), 12; S.I. 2004/83, art. 2
- F50** Words in s. 30(2) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 4(4), 12; S.I. 2004/83, art. 2
- F51** S. 30(3) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 4(5), 12; S.I. 2004/83, art. 2
- F52** Words in s. 30(3) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 5(6)(b), 12; S.I. 2004/83, art. 2
- F53** Words in s. 30(4) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 4(6), 12; S.I. 2004/83, art. 2
- F54** S. 30(6)(7) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 4(7), 12; S.I. 2004/83, art. 2
- F55** S. 30(9) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 4(8), 12; S.I. 2004/83, art. 2

#### [<sup>F56</sup>30A Secretary of State's powers in relation to exclusion

- (1) This section applies if—
- the Monitoring Commission has, or members of that Commission have under the agreement establishing it, made a report containing a recommendation about steps the Assembly might consider taking;
  - the taking of those steps by the Assembly requires the passing by it of a resolution under section 30(1), (1A), (2) or (3) in relation to a Minister, junior Minister or political party; and
  - the first motion for a resolution under that provision in relation to the Minister, junior Minister or political party concerned that is put to the vote after the making of the report does not attract cross-community support.
- (2) Where this section applies because of the failure of a motion for a resolution under section 30(1), the Secretary of State may by direction exclude the Minister or junior Minister concerned from holding office as a Minister or junior Minister for such period of not less than three months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (4)).
- (3) Where this section applies because of the failure of a motion for a resolution under section 30(1A), the Secretary of State may, before the period of exclusion to which the motion related comes to an end, by direction extend it until the end of such period of not less than three months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (4)).

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- (4) The Secretary of State may exercise the power under subsection (2) or (3) only if he is satisfied that the Minister or junior Minister concerned—
  - (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) has failed to observe any other terms of the pledge of office.
- (5) Where this section applies because of the failure of a motion for a resolution under section 30(2), the Secretary of State may by direction exclude members of the political party concerned from holding office as Ministers or junior Ministers for such period of not less than six months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (7)).
- (6) Where this section applies because of the failure of a motion for a resolution under section 30(3), the Secretary of State may, before the period of exclusion to which the motion related comes to an end, by direction extend it until the end of such period of not less than six months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (7)).
- (7) The Secretary of State may exercise the power under subsection (5) or (6) only if he is satisfied that the political party concerned—
  - (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office.
- (8) A period of exclusion under subsection (2) or (5) shall come to an end if—
  - (a) the Secretary of State by direction so provides; or
  - (b) the Assembly is dissolved.
- (9) In subsection (1)(a) “the Monitoring Commission” means the Commission mentioned in section 1 of the Northern Ireland (Monitoring Commission etc.) Act 2003.
- (10) In this section a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.]

#### Textual Amendments

**F56** S. 30A inserted (7.1.2004) by [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(c. 25\)](#), **ss. 5(1), 12**; [S.I. 2004/83](#), **art. 2**

### [<sup>F57</sup> 30B Secretary of State’s powers in exceptional circumstances

- (1) Notwithstanding the provisions of section 30A, under exceptional circumstances the Secretary of State may by direction temporarily exclude a Minister or junior Minister.
- (2) An exclusion under subsection (1) shall only remain in effect until either—
  - (a) a report from the Commission has been made; or
  - (b) the Assembly has considered a resolution under section 30(1) or (2); or
  - (c) a period of two weeks has elapsed.
- (3) In subsection (1) “exceptional circumstances” include where—

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- (a) there is insufficient time for the Commission to make a report; and
  - (b) there is insufficient time for the Assembly to consider a resolution under section 30(1) or (2).
- (4) A direction made under this section shall be in writing and shall be laid before Parliament after the direction is given.]

#### Textual Amendments

**F57** S. 30B inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 6, 12; S.I. 2004/83, art. 2

## PART IV

### THE NORTHERN IRELAND ASSEMBLY

#### Modifications etc. (not altering text)

**C17** Pts. II-IV applied in part (1.1.2007) by The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (S.R. 2006/439), reg. 53(6)

#### *Elections etc*

### 31 Dates of elections and dissolutions.

- (1) Subject to subsection (2), the date of the poll for the election of each Assembly shall be the first Thursday in May in the fourth calendar year following that in which its predecessor was elected; and the predecessor shall be dissolved at the beginning of the minimum period which ends with that date.
- [<sup>F58</sup>(2) The date of the poll for the election of the Assembly next following the Assembly elected at the poll on 26 November 2003 shall be 7 March 2007; and the Assembly elected on 26 November 2003 shall be dissolved on 30 January 2007.]
- (3) The Secretary of State may at any time by order direct that the date of the poll for the election of the next Assembly shall, instead of being that specified in subsection (1) <sup>F59</sup> . . . , be a date specified in the order being a date falling not more than two months before or after the date specified in that subsection.
- (4) An Assembly elected under this section or section 32 shall meet within the period of eight days beginning with the day of the poll at which it is elected.
- (5) For the purposes of subsection (4), a Saturday, a Sunday, Christmas Day, Good Friday and any day which is a bank holiday in Northern Ireland shall be disregarded [<sup>F60</sup>, as shall any day on which section 1 of the Northern Ireland Act 2000 is in force].
- (6) In this section “minimum period” means a period determined in accordance with an order of the Secretary of State.

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#### Textual Amendments

- F58** S. 31(2) substituted (26.1.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 3(1)**, 28 (with s. 1(3))
- F59** Words in s. 31(3) omitted (20.3.2003) by virtue of [Northern Ireland Assembly Elections Act 2003 \(c. 3\)](#), **s. 1(2)(b)**
- F60** Words in s. 31(5) inserted (20.3.2003) by [Northern Ireland Assembly Elections Act 2003 \(c. 3\)](#), **s. 1(2)(c)**

### 32 Extraordinary elections.

- (1) If the Assembly passes a resolution that it should be dissolved the Secretary of State shall propose a date for the poll for the election of the next Assembly.
- (2) A resolution under subsection (1) shall not be passed without the support of a number of members of the Assembly which equals or exceeds two thirds of the total number of seats in the Assembly.
- [<sup>F61</sup>(3) If—
- (a) the period mentioned in section 16A(3) ends without the offices of First Minister and deputy First Minister and the Ministerial offices to be held by Northern Ireland Ministers having been filled; or
- (b) the period mentioned in section 16B(3) ends without the offices of First Minister and deputy First Minister having been filled,
- the Secretary of State shall propose a date for the poll for the election of the next Assembly.]
- (4) If the Secretary of State proposes a date under subsection (1) or (3), Her Majesty may by Order in Council—
- (a) direct that the date of the poll for the election of the next Assembly shall, instead of being determined in accordance with section 31, be the date proposed; and
- (b) provide for the Assembly to be dissolved on a date specified in the Order.

#### Textual Amendments

- F61** S. 32(3) substituted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 8, 27(4)(5)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1), **Sch. 5 para. 4** (with s. 1(3)); S.I. 2007/1397, **art. 2**

#### Modifications etc. (not altering text)

- C18** S. 32(3)(a) applied (12.3.2009 temp. until 30.4.2012) by [Northern Ireland Act 2009 \(c. 3\)](#), **ss. 1, 5, Sch. 1 para. 7(3)(b)**

### 33 Constituencies and numbers of members.

- (1) The members of the Assembly shall be returned for the parliamentary constituencies in Northern Ireland.
- (2) Each constituency shall return six members.

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- (3) An Order in Council under the <sup>M4</sup>Parliamentary Constituencies Act 1986 changing a parliamentary constituency in Northern Ireland shall have effect for the purposes of this Act in relation to—
- (a) the first election under section 31 or 32 which takes place after the Order comes into force; and
  - (b) later elections under that section and by-elections.

#### Marginal Citations

M4 1986 c.56.

### 34 Elections and franchise.

- (1) This section applies to elections of members of the Assembly, including by-elections.
- (2) Each vote in the poll at an election shall be a single transferable vote.
- (3) A single transferable vote is a vote—
  - (a) capable of being given so as to indicate the voter's order of preference for the candidates for election as members for the constituency; and
  - (b) capable of being transferred to the next choice when the vote is not needed to give a prior choice the necessary quota of votes or when a prior choice is eliminated from the list of candidates because of a deficiency in the number of votes given for him.
- (4) The Secretary of State may by order make provision about elections or any matter relating to them.
- (5) In particular, an order under subsection (4) may make—
  - (a) provision as to the persons entitled to vote at an election and the registration of such persons;
  - (b) provision for securing that no person stands as a candidate for more than one constituency at a general election;
  - (c) provision for determining the date of the poll at a by-election;
  - (d) provision about deposits.
- (6) An order under subsection (4) may apply (with or without modifications) any provision of, or made under, any enactment.

#### Modifications etc. (not altering text)

C19 S. 34(4) amended (16.2.2001) by 2000 c. 41, s. 7(2)(h) (with s. 156(6)); S.I. 2001/222, art. 2, Sch. 1 Pt. I

### 35 Vacancies.

- (1) The Secretary of State may by order make provision for the filling of vacancies occurring in the Assembly's membership.
- (2) Such provision may be made by reference to by-elections or substitutes or such other method of filling vacancies as the Secretary of State thinks fit.

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- (3) If a seat becomes vacant, the Presiding Officer shall as soon as reasonably practicable inform the Chief Electoral Officer for Northern Ireland.
- (4) The validity of any proceedings of the Assembly is not affected by any vacancy in its membership.
- (5) An order under subsection (1) may apply (with or without modifications) any provision of, or made under, any enactment.

### *Disqualification*

## 36 Disqualification.

- (1) The <sup>M5</sup>Northern Ireland Assembly Disqualification Act 1975 shall have effect as if any reference to the Assembly established under section 1 of the <sup>M6</sup>Northern Ireland Assembly Act 1973 were a reference to the Assembly.
- (2) No recommendation shall be made to Her Majesty to make an Order in Council under section 3(1) of the Northern Ireland Assembly Disqualification Act 1975 (power to amend Schedule 1) without the consent of the Secretary of State.
- (3) A person who is Her Majesty's Lord-Lieutenant or Lieutenant for a county or county borough in Northern Ireland is disqualified for membership of the Assembly for a constituency comprising the whole or part of the county or county borough.
- (4) A person is disqualified for membership of the Assembly if he is disqualified for membership of the House of Commons otherwise than under the <sup>M7</sup>House of Commons Disqualification Act 1975.
- <sup>F62</sup>(5) .....
- (6) A person is not disqualified for membership of the Assembly by virtue of subsection (4) by reason only that—
  - (a) he is a peer <sup>F63</sup> . . . ; or
  - [<sup>F64</sup>(b) he is a Lord Spiritual.]
- (7) A person is not disqualified for membership of the Assembly by virtue of subsection (4) by reason only that he is disqualified under section 3 of the Act of Settlement (certain persons born out of the Kingdom) if he is a citizen of the European Union.

#### Textual Amendments

**F62** S. 36(5) repealed (30.11.2000) by [2000 c. 42, s. 4](#)

**F63** Words in s. 36(6)(a) repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 146, 148, Sch. 18 Pt. 5; S.I. 2009/1604, art. 2\(f\)](#)

**F64** S. 36(6)(b) substituted (11.5.2001) by [2001 c. 13, s. 1, Sch. 1 para. 5](#)

#### Marginal Citations

**M5** [1975 c.25.](#)

**M6** [1973 c.17.](#)

**M7** [1975 c.24.](#)



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### **37 Effect of disqualification and provision for relief.**

- (1) Subject to any order made by the Assembly under this section—
  - (a) if any person disqualified by virtue of section 36 is returned as a member of the Assembly, his return shall be void; and
  - (b) if any person being a member of the Assembly becomes disqualified by virtue of that section, his seat shall be vacated.
- (2) If, in a case which falls or is alleged to fall within subsection (1) otherwise than by virtue of section 36(4), it appears to the Assembly—
  - (a) that the grounds of disqualification or alleged disqualification which subsisted or arose at the material time have been removed; and
  - (b) that it is otherwise proper so to do,the Assembly may by order direct that any such disqualification incurred on those grounds at that time shall be disregarded for the purposes of this section.
- (3) No order under subsection (2) shall affect the proceedings on any election petition or any determination of an election court.
- (4) Subsection (1)(b) has effect subject to section 141 of the <sup>M8</sup>Mental Health Act 1983 (mental illness) and section 427 of the <sup>M9</sup>Insolvency Act 1986 (bankruptcy etc); and where, in consequence of either of those sections, the seat of a disqualified member of the Assembly has not been vacated—
  - (a) he shall not participate in any proceedings of the Assembly; and
  - (b) any of his other rights and privileges as a member of the Assembly may be withdrawn by a resolution of the Assembly.
- (5) The validity of any proceedings of the Assembly is not affected by the disqualification of any person from being a member of the Assembly or from being a member for the constituency for which he purports to sit.

#### **Marginal Citations**

**M8** 1983 c.20.

**M9** 1986 c.45.

### **38 Disqualification: judicial proceedings.**

- (1) Any person who claims that a person purporting to be a member of the Assembly—
  - (a) is disqualified; or
  - (b) was disqualified when, or at any time since, he was returned,may apply to the High Court of Justice in Northern Ireland for a declaration to that effect.
- (2) On an application—
  - (a) the person in respect of whom the application is made shall be the respondent;
  - (b) the applicant shall give such security for costs, not exceeding £5,000, as the court may direct; and
  - (c) the decision of the court shall be final.
- (3) A declaration made in accordance with this section shall be certified in writing to the Secretary of State by the court.

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- (4) No such declaration shall be made in respect of a person on any grounds if an order has been made by the Assembly under subsection (2) of section 37 directing that any disqualification incurred by him on those grounds shall be disregarded for the purposes of that section.
- (5) No declaration shall be made in respect of any person on grounds which subsisted when he was elected if an election petition is pending or has been tried in which his disqualification on those grounds is or was in issue.
- (6) The Secretary of State may by order substitute for the amount specified in subsection (2)(b) such other amount as may be specified in the order.

### *Presiding Officer and Commission*

#### **39 Presiding Officer.**

- (1) Each Assembly shall as its first business elect from among its members a Presiding Officer and deputies.
- (2) A person elected Presiding Officer or deputy shall hold office until the conclusion of the next election for Presiding Officer under subsection (1) unless—
  - (a) he previously resigns;
  - (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or
  - (c) the Assembly elects from among its members a person to hold office as Presiding Officer or deputy in his place.
- (3) If the Presiding Officer or a deputy ceases to hold office (otherwise than under subsection (2)(c)) before the Assembly is dissolved, the Assembly shall elect another from among its members to fill his place.
- (4) The Presiding Officer's functions may be exercised by a deputy if the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act.
- (5) The Presiding Officer may (subject to standing orders) authorise a deputy to exercise functions on his behalf.
- (6) Standing orders may include provision as to the participation (including voting) of the Presiding Officer and deputies in the proceedings of the Assembly.
- (7) A person shall not be elected under subsections (1) to (3) without cross-community support.

#### **40 Commission.**

- (1) There shall be a body corporate, to be known as the Northern Ireland Assembly Commission ("the Commission"), to perform—
  - (a) the functions conferred on the Commission by virtue of any enactment; and
  - (b) any functions conferred on the Commission by resolution of the Assembly.
- (2) The members of the Commission shall be—
  - (a) the Presiding Officer; and

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- (b) the prescribed number of members of the Assembly appointed in accordance with standing orders.
- (3) In subsection (2) “the prescribed number” means 5 or such other number as may be prescribed by standing orders.
- [<sup>F65</sup>(3A) A member of the Assembly who is—
- (a) a Minister of the Government of Ireland, or
  - (b) chairman or deputy chairman of—
    - (i) a committee of the Dáil Éireann (House of Representatives of Ireland),
    - (ii) a committee of the Seanad Éireann (Senate of Ireland), or
    - (iii) a joint committee of the Oireachtas (National Parliament of Ireland),may not be appointed as a member of the Commission.]

(4) The Commission shall provide the Assembly, or ensure that the Assembly is provided, with the property, staff and services required for the Assembly’s purposes.

(5) The Assembly may give special or general directions to the Commission for the purpose of or in connection with the exercise of the Commission’s functions.

(6) Proceedings by or against the Assembly (other than proceedings on the Crown side of the Queen’s Bench Division) shall be instituted by or against the Commission on behalf of the Assembly.

(7) Any property or liabilities acquired or incurred in relation to matters within the general responsibility of the Commission to which (apart from this subsection) the Assembly would be entitled or subject shall be treated for all purposes as property or liabilities of the Commission.

(8) Any expenses of the Commission shall be defrayed out of money appropriated by Act of the Assembly.

(9) Any sums received by the Commission shall be paid into the Consolidated Fund of Northern Ireland, subject to any provision made by Act of the Assembly for the disposal of or accounting for such sums.

(10) Schedule 5 (which makes further provision about the Commission) shall have effect.

#### Textual Amendments

**F65** S. 40(3A) inserted (30.11.2000) by 2000 c. 42, s. 3(2)

#### Commencement Information

**II** S. 40 wholly in force at 2.12.1999; s. 40 not in force at Royal Assent see s. 101(3); s. 40(10) in force for specified purposes at 28.10.1999 by S.I. 1999/2936, art. 2; s. 40(1)-(9) in force and s. 40(10) in force at 2.12.1999 insofar as not already in force by S.I. 1999/3209, art. 2, Sch.

*Proceedings etc.*

#### 41 Standing orders.

- (1) The proceedings of the Assembly shall be regulated by standing orders.

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- (2) Standing orders shall not be made, amended or repealed without cross-community support.
- (3) Schedule 6 (which makes provision as to how certain matters are to be dealt with by standing orders) shall have effect.

#### **42 Petitions of concern.**

- (1) If 30 members petition the Assembly expressing their concern about a matter which is to be voted on by the Assembly, the vote on that matter shall require cross-community support.
- (2) Standing orders shall make provision with respect to the procedure to be followed in petitioning the Assembly under this section, including provision with respect to the period of notice required.
- (3) Standing orders shall provide that the matter to which a petition under this section relates may be referred, in accordance with paragraphs 11 and 13 of Strand One of the Belfast Agreement, to the committee established under section 13(3)(a).

#### **43 Members' interests.**

- (1) Standing orders shall include provision for a register of interests of members of the Assembly, and for—
  - (a) registrable interests (as defined in standing orders) to be registered in it; and
  - (b) the register to be published and made available for public inspection.
- (2) Standing orders shall include provision requiring that any member of the Assembly who has—
  - (a) a financial interest (as defined in standing orders) in any matter; or
  - (b) any other interest, or an interest of any other kind, specified in standing orders in any matter,
 declares that interest before taking part in any proceedings of the Assembly relating to that matter.
- (3) Standing orders made in pursuance of subsection (1) or (2) may include provision for preventing or restricting the participation in proceedings of the Assembly of a member with a registrable interest, or an interest mentioned in subsection (2), in a matter to which the proceedings relate.
- (4) Standing orders shall include provision prohibiting a member of the Assembly from—
  - (a) advocating or initiating any cause or matter on behalf of any person, by any means specified in standing orders, in consideration of any payment or benefit in kind of a description so specified; or
  - (b) urging, in consideration of any such payment or benefit in kind, any other member of the Assembly to advocate or initiate any cause or matter on behalf of any person by any such means.
- (5) Standing orders may include provision—
  - (a) for excluding from proceedings of the Assembly any member who fails to comply with, or contravenes, any provision made in pursuance of subsections (1) to (4); and

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- (b) for withdrawing his rights and privileges as a member for the period of his exclusion.
- (6) Any member of the Assembly who—
  - (a) takes part in any proceedings of the Assembly without having complied with, or in contravention of, any provision made in pursuance of subsections (1) to (3); or
  - (b) contravenes any provision made in pursuance of subsection (4),  
is guilty of an offence.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) Proceedings for an offence under subsection (6) shall not be taken without the consent of the Director of Public Prosecutions for Northern Ireland.

#### **44 Power to call for witnesses and documents.**

- (1) The Assembly may require any person—
  - (a) to attend its proceedings for the purpose of giving evidence; or
  - (b) to produce documents in his custody or under his control,  
relating to any of the matters mentioned in subsection (2).
- (2) Those matters are—
  - (a) transferred matters concerning Northern Ireland;
  - (b) other matters in relation to which statutory functions are exercisable by Ministers or the Northern Ireland departments.
- (3) The power in subsection (1) is exercisable in relation to a person outside Northern Ireland only in connection with the discharge by him of functions relating to matters within subsection (2).
- (4) That power is not exercisable in relation to a person who is or has been a Minister of the Crown, or a person who is or has been in Crown employment within the meaning of Article 236 of the <sup>M10</sup>Employment Rights (Northern Ireland) Order 1996, in connection with the discharge of any functions prior to the appointed day <sup>F66</sup>or during a period when section 1 of the Northern Ireland Act 2000 was in force].
- <sup>F67</sup>(4A) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a function which relates to a matter which is a transferred matter by virtue of an Order under section 4.

For this purpose “relevant period” means a period when the matter was not a transferred matter.

- (4B) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a statutory function which—
  - (a) is exercisable by a Minister or a Northern Ireland department; but
  - (b) was at any time exercisable by a Minister of the Crown.

For this purpose “relevant period” means a period when the statutory function was exercisable by a Minister of the Crown.]

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- (5) That power is not exercisable in relation to—
- (a) a person discharging functions of any body whose functions relate to excepted matters, in connection with the discharge by him of those functions;
  - (b) a person discharging functions of any body whose functions relate to reserved matters, in connection with the discharge by him of those functions;
  - (c) a judge of any court or a member of any tribunal which exercises the judicial power of the State.
- (6) That power may be exercised by a committee of the Assembly only if the committee is expressly authorised to do so by standing orders.
- (7) The Presiding Officer shall give the person in question notice in writing specifying—
- (a) the time and place at which the person is to attend and the particular matters relating to which he is required to give evidence; or
  - (b) the documents, or types of documents, which he is to produce, the date by which he is to produce them and the particular matters to which they are to relate.
- (8) Such notice shall be given—
- (a) in the case of an individual, by sending it, by registered post or the recorded delivery service, addressed to him at his usual or last known address or, where he has given an address for service, at that address;
  - (b) in any other case, by sending it, by registered post or the recorded delivery service, addressed to the person at the person’s registered or principal office.
- (9) A person is not obliged under this section to answer any question or produce any document which he would be entitled to refuse to answer or produce in proceedings in a court in Northern Ireland.
- (10) In this section “statutory functions” means functions conferred by virtue of any enactment.

#### Textual Amendments

**F66** Words in s. 44(4) inserted (12.2.2000) by 2000 c. 1, s. 9(3); S.I. 2000/396, art. 2

**F67** S. 44(4A)(4B) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 18, 31; S.I. 2009/448, art. 2

#### Modifications etc. (not altering text)

**C20** Amendment in s. 44(4) continued (10.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2)(5), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 4 para. 2(8)} (with Sch. 4 para. 2(10)); S.I. 2007/1397, art. 2

#### Marginal Citations

**M10** S.I. 1996/1919 (N.I.16).

## 45 Witnesses and documents: offences.

- (1) Subject to subsection (9) of section 44, any person to whom a notice under subsection (7) of that section has been given who—
- (a) refuses or fails to attend proceedings as required by the notice;

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- (b) refuses or fails, when attending proceedings as required by the notice, to answer any question relating to the matters specified in the notice;
  - (c) deliberately alters, suppresses, conceals or destroys any document which he is required to produce by the notice; or
  - (d) refuses or fails to produce any such document,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months.
- (2) It is a defence for a person charged with an offence under subsection (1)(a), (b) or (d) to prove that he had a reasonable excuse for the refusal or failure.
  - (3) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
    - (a) a director, manager, secretary or other similar officer of the body corporate; or
    - (b) any person who was purporting to act in any such capacity,he, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.
  - (4) Proceedings for an offence under this section shall not be taken without the consent of the Director of Public Prosecutions for Northern Ireland.
  - (5) For the purposes of section 44 and this section, a person shall be taken to comply with a requirement to produce a document if he produces a copy of, or an extract of the relevant part of, the document.

#### **46 Witnesses: oaths.**

- (1) The Presiding Officer or such other person as may be authorised by standing orders may—
  - (a) administer an oath to any person giving evidence in proceedings of the Assembly; and
  - (b) require him to take the oath.
- (2) Any person who refuses to take an oath when required to do so under subsection (1) (b) is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months.

#### *Remuneration and pensions*

#### **47 Remuneration of members.**

- (1) The Assembly shall pay to members of the Assembly such salaries as the Assembly may from time to time determine.
- (2) The Assembly may pay to members of the Assembly such allowances as the Assembly may from time to time determine.
- (3) A determination under this section may provide—
  - (a) for higher salaries to be payable to members of the Assembly—

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- (i) holding office as a Minister or junior Minister;
  - (ii) holding office as Presiding Officer or deputy;
  - (iii) holding office as a member of the Northern Ireland Assembly Commission; or
  - (iv) holding an office specified in standing orders; and
- (b) for different salaries to be payable to members of the Assembly holding different such offices.
- (4) A determination under this section shall provide that, if a salary is payable to a member of the Assembly as a member of either House of Parliament or of the European Parliament, his salary as a member of the Assembly shall be reduced—
- (a) to a proportion of what it would otherwise be or to a particular amount; or
  - (b) by the amount of the other salary payable to him, by a proportion of that amount or by some other amount.
- (5) A determination under this section may provide for different allowances for different cases.
- (6) A determination under this section may provide for salaries or allowances to change from time to time by reference to other amounts or specified formulas.
- (7) The Assembly may not delegate the function of making a determination under this section.
- (8) Standing orders must include provision for the publication of every determination under this section.
- (9) For the purposes of this section—
- (a) a person's membership of the Assembly begins on the day on which he takes his seat in accordance with standing orders; and
  - (b) a person's holding of such an office as is mentioned in subsection (3)(a) begins on the day on which he takes up office.
- (10) For the purposes of this section, a person who is a member of the Assembly immediately before the Assembly is dissolved shall be treated—
- (a) if he continues to hold such an office as is mentioned in subsection (3)(a)(i) to (iii), as if he were a member of the Assembly until the end of the day on which he ceases to hold the office; and
  - (b) if he does not fall within paragraph (a) but is nominated as a candidate at the subsequent general election, as if he were a member of the Assembly until the end of the day of the poll for that election.
- (11) Any expenditure incurred by the Assembly under this section shall be defrayed out of money appropriated by Act of the Assembly.

**Modifications etc. (not altering text)**

- C21** S. 47: Functions of Assembly made exercisable by Secretary of State (*temp.* 12.2.2000 - 30.5.2000) by 2000 c. 1, s. 1(8), **Sch. para. 9(1)**; S.I. 2000/396, **art. 2**, S.I. 2000/1445, art. 2
- C22** S. 47 restricted (30.5.2000) by 2000 c. 1, s. 3(8)-(10) (as inserted by S.I. 2000/1446, **art. 2(2)**)  
S. 47 restricted (12.2.2000) by 2000 c. 1, s. 1(8), **Sch. para. 9(3)**; S.I. 2000/396, **art. 2**
- C23** S. 47 modified (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c.12), s. 4



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- C24** S. 47 modified (26.1.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 4, 27 (with s. 1(3)); S.I. 2007/92, art. 2
- C25** S. 47(9)(a) modified (4.12.2003) by The Northern Ireland Act 1998 (Modification) Order 2003 (S.I. 2003/3039), art. 2

#### **[<sup>F68</sup>47A Resolutions about reduction of remuneration**

- (1) If, in relation to the salary payable under section 47 to a Minister or junior Minister, the Assembly resolves that the whole or a specified part of the salary payable for a specified period shall not be payable—
  - (a) because he is not committed to non-violence and exclusively peaceful and democratic means, or
  - (b) because of any failure of his to observe any other terms of the pledge of office, the salary payable to him under that section shall be reduced accordingly.
- (2) If, in relation to the salaries payable under section 47 to members of the Assembly who are members of a particular political party, the Assembly resolves that the whole or a specified part of the salaries payable for a specified period shall not be payable—
  - (a) because that party is not committed to non-violence and exclusively peaceful and democratic means, or
  - (b) because it is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office, the salaries payable to them under that section shall be reduced accordingly.
- (3) The Assembly may, before the end of the period by reference to which a reduction under subsection (1) or (2) falls to be made, by resolution extend that period.
- (4) The Assembly may, before the end of the period by reference to which provision for non-payability under section 47B(2) or (5) applies, by resolution extend that period.
- (5) The period by reference to which a reduction under subsection (1) or (2) falls to be made shall come to an end if the Assembly—
  - (a) is dissolved; or
  - (b) resolves to bring the reduction to an end.
- (6) A motion for a resolution under this section shall not be moved unless—
  - (a) it is supported by at least 30 members of the Assembly;
  - (b) it is moved by the First Minister and the deputy First Minister acting jointly; or
  - (c) it is moved by the Presiding Officer in pursuance of a notice under subsection (7).
- (7) If the Secretary of State is of the opinion that the Assembly ought to consider a resolution under this section, he shall serve a notice on the Presiding Officer requiring him to move a motion for such a resolution.
- (8) In forming an opinion under subsection (7), the Secretary of State shall in particular take into account the matters listed in section 30(7).
- (9) A resolution under this section shall not be passed without cross-community support.
- (10) In this section a reference to—
  - (a) the period by reference to which a reduction under subsection (1) or (2) falls to be made, or

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- (b) the period by reference to which provision for non-payability under section 47B(2) or (5) applies, is, where the period has been extended, a reference to the period as extended.

#### Textual Amendments

**F68** Ss. 47A-47C inserted (7.1.2004) by [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(c. 25\)](#), [ss. 7\(1\), 12](#); [S.I. 2004/83, art. 2](#)

### 47B Secretary of State's powers in relation to reduction of remuneration

- (1) This section applies if—
- (a) the Monitoring Commission has, or members of that Commission have under the agreement establishing it, made a report containing a recommendation about steps the Assembly might consider taking;
  - (b) the taking of those steps by the Assembly requires the passing by it of a resolution under section 47A(1), (2), (3) or (4) in relation to a Minister, junior Minister or political party; and
  - (c) the first motion for a resolution under that provision in relation to the Minister, junior Minister or political party concerned that is put to the vote after the making of the report does not attract cross-community support.
- (2) Where this section applies because of the failure of a motion for a resolution under section 47A(1), the Secretary of State may, in relation to the salary payable under section 47 to the Minister or junior Minister concerned, by direction provide that the whole or a specified part of the salary payable for a specified period shall not be payable (subject to subsection (4)).
- (3) Where this section applies because of—
- (a) the failure of a motion for a resolution under section 47A(3) to extend a period by reference to which a reduction under section 47A(1) falls to be made, or
  - (b) the failure of a motion for a resolution under section 47A(4) to extend a period by reference to which provision for non-payability under subsection (2) applies,
- the Secretary of State may, before the end of that period, by direction extend that period (subject to subsection (4)).
- (4) The Secretary of State may exercise the power under subsection (2) or (3) only if he is satisfied that the Minister or junior Minister concerned—
- (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) has failed to observe any other terms of the pledge of office.
- (5) Where this section applies because of the failure of a motion for a resolution under section 47A(2), the Secretary of State may, in relation to the salaries payable under section 47 to members of the Assembly who are members of the political party concerned, by direction provide that the whole or a specified part of the salaries payable for a specified period shall not be payable (subject to subsection (7)).
- (6) Where this section applies because of—

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- (a) the failure of a motion for a resolution under section 47A(3) to extend a period by reference to which a reduction under section 47A(2) falls to be made, or
  - (b) the failure of a motion for a resolution under section 47A(4) to extend a period by reference to which provision for non-payability under subsection (5) applies,
- the Secretary of State may, before the end of that period, by direction extend that period (subject to subsection (7)).
- (7) The Secretary of State may exercise the power under subsection (5) or (6) only if he is satisfied that the political party concerned—
- (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office.
- (8) The period by reference to which provision for non-payability under subsection (2) or (5) applies shall come to an end if—
- (a) the Secretary of State by direction so provides; or
  - (b) the Assembly is dissolved.
- (9) In subsection (1)(a) “the Monitoring Commission” means the Commission mentioned in section 1 of the Northern Ireland (Monitoring Commission etc.) Act 2003.
- (10) In this section a reference to—
- (a) the period by reference to which provision for non-payability under subsection (2) or (5) applies, or
  - (b) the period by reference to which a reduction under section 47A(1) or (2) falls to be made,
- is, where the period has been extended, a reference to the period as extended.

#### Textual Amendments

**F68** Ss. 47A-47C inserted (7.1.2004) by [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(c. 25\)](#), [ss. 7\(1\), 12](#); [S.I. 2004/83](#), [art. 2](#)

#### Modifications etc. (not altering text)

**C26** [S. 47B](#) modified (temp.) (21.4.2004) by [The Northern Ireland Act 1998 and Northern Ireland Act 2000 \(Modification\) Order 2004 \(S.I. 2004/1164\)](#), [art. 2](#)

### 47C Sections 47A and 47B: specified periods and extensions

- (1) A period specified under section 47A(1) or (2) or 47B(2) or (5)—
- (a) shall begin no earlier than the end of the day when the resolution or direction specifying it is passed or given;
  - (b) shall begin no later than the end of the period of one month beginning with that day; and
  - (c) shall not be longer than 12 months.
- (2) The power under section 47A(3) or (4) or 47B(3) or (6) to extend a period is a power to extend it until the end of such period of not more than 12 months beginning with the

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date of the resolution, or direction, by which the power is exercised as the resolution or direction may provide.]

#### Textual Amendments

**F68** Ss. 47A-47C inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 7(1), 12; S.I. 2004/83, art. 2

#### 48 Pensions of members.

- (1) The Assembly may make provision for the payment of pensions, gratuities or allowances to, or in respect of, any person who—
- (a) has ceased to be a member of the Assembly; or
  - (b) has ceased to hold such an office as is mentioned in section 47(3)(a) but continues to be a member of the Assembly.
- (2) Such provision may, in particular, include provision for—
- (a) contributions or payments towards provision for such pensions, gratuities or allowances;
  - (b) the establishment and administration (whether by the Commission or otherwise) of one or more pension schemes.
- [<sup>F69</sup>(2A) Where any salary payable to a person under section 47 is not payable because of either or both of sections 47A and 47B, any provision made under this section for the payment of pensions which has effect in relation to him shall apply as if the salary were payable.]
- (3) In this section—
- “the Commission” means the Northern Ireland Assembly Commission;
- “provision” includes provision—
- (a) by an Act of the Assembly; or
  - (b) by a resolution of the Assembly conferring functions on the Commission.
- (4) Any expenditure incurred by the Assembly under this section shall be defrayed out of money appropriated by Act of the Assembly.

#### Extent Information

**E1** S. 48: functions of Assembly made exercisable by Secretary of State (temp. from 12.2.2000 to 30.5.2000) by 2000 c. 1, s. 1(8), Sch. para. 9(1); S.I. 2000/396, art. 2; S.I. 2000/1445, art. 2

#### Textual Amendments

**F69** S. 48(2A) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 7(2), 12; S.I. 2004/83, art. 2

#### Modifications etc. (not altering text)

**C27** S. 48 restricted (12.2.2000) by 2000 c. 1, s. 1(8), Sch. para. 9(3); S.I. 2000/396, art. 2

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### Miscellaneous

#### 49 Letters Patent etc.

- (1) Her Majesty may by Order in Council make provision as to—
  - (a) the form and manner of preparation; and
  - (b) the publication,of Letters Patent signed with Her Majesty’s own hand signifying Her Assent to a Bill passed by the Assembly.
- (2) If the First Minister and the deputy First Minister acting jointly so direct, impressions with the same device as the Great Seal of Northern Ireland shall be taken in such manner, of such size and on such material as is specified in the direction.
- (3) Each such impression—
  - (a) shall be known as a Wafer Great Seal of Northern Ireland; and
  - (b) shall be kept in accordance with directions of the First Minister and the deputy First Minister acting jointly.
- (4) If a Wafer Great Seal of Northern Ireland has been applied to Letters Patent mentioned in subsection (1), the document has the same validity as if it had passed under the Great Seal of Northern Ireland.

#### Commencement Information

- I2** S. 49 wholly in force at 2.12.1999; s. 49 not in force at Royal Assent see s. 101(3); s. 49(1) in force at 1.3.1999 by S.I. 1999/340, art. 2(3), **Sch. Pt. 3**; s. 49(2)-(4) in force at 2.12.1999 by S.I. 1999/3209, art. 2, **Sch.**

#### 50 Privilege.

- (1) For the purposes of the law of defamation, absolute privilege shall attach to—
  - (a) the making of a statement in proceedings of the Assembly; and
  - (b) the publication of a statement under the Assembly’s authority.
- (2) A person is not guilty of contempt of court under the strict liability rule as the publisher of any matter—
  - (a) in the course of proceedings of the Assembly which relate to a Bill or subordinate legislation; or
  - (b) to the extent that it consists of a fair and accurate report of such proceedings which is made in good faith.
- (3) In this section—

“statement” has the same meaning as in the <sup>M11</sup>Defamation Act 1996;

“the strict liability rule” has the same meaning as in the <sup>M12</sup>Contempt of Court Act 1981.

#### Marginal Citations

- M11** 1996 c.31.  
**M12** 1981 c.49.

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*Status: Point in time view as at 01/03/2010. This version of this Act contains provisions that are prospective.*  
*Changes to legislation: Northern Ireland Act 1998 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

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## 51 Resignation of members.

A member of the Assembly may at any time resign his seat by notice in writing to the Presiding Officer.

### [<sup>F70</sup>51A Resolutions about reduction of financial assistance

- (1) If the Assembly resolves that the whole or a specified part of any financial assistance payable for a specified period under the Financial Assistance for Political Parties Act (Northern Ireland) 2000 to a particular political party shall not be payable—
  - (a) because it is not committed to non-violence and exclusively peaceful and democratic means, or
  - (b) because it is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office, the financial assistance payable to it under that Act shall be reduced accordingly.
- (2) The Assembly may, before the end of the period by reference to which a reduction under subsection (1) falls to be made, by resolution extend that period.
- (3) The Assembly may, before the end of the period by reference to which provision for non-payability under section 51B(2) applies, by resolution extend that period.
- (4) The period by reference to which a reduction under subsection (1) falls to be made shall come to an end if the Assembly—
  - (a) is dissolved; or
  - (b) resolves to bring the reduction to an end.
- (5) A motion for a resolution under this section shall not be moved unless—
  - (a) it is supported by at least 30 members of the Assembly;
  - (b) it is moved by the First Minister and the deputy First Minister acting jointly; or
  - (c) it is moved by the Presiding Officer in pursuance of a notice under subsection (6).
- (6) If the Secretary of State is of the opinion that the Assembly ought to consider a resolution under this section, he shall serve a notice on the Presiding Officer requiring him to move a motion for such a resolution.
- (7) In forming an opinion under subsection (6), the Secretary of State shall in particular take into account the matters listed in section 30(7).
- (8) A resolution under this section shall not be passed without cross-community support.
- (9) In this section a reference to—
  - (a) the period by reference to which a reduction under subsection (1) falls to be made, or
  - (b) the period by reference to which provision for non-payability under section 51B(2) applies,
 is, where the period has been extended, a reference to the period as extended.

#### Textual Amendments

**F70** Ss. 51A-51C inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003, {ss. 8}, 12; S.I. 2004/83, art. 2

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## **51B Secretary of State’s powers in relation to reduction of financial assistance**

- (1) This section applies if—
  - (a) the Monitoring Commission has, or members of that Commission have under the agreement establishing it, made a report containing a recommendation about steps the Assembly might consider taking;
  - (b) the taking of those steps by the Assembly requires the passing by it of a resolution under section 51A(1), (2) or (3) in relation to a political party; and
  - (c) the first motion for a resolution under that provision in relation to the political party concerned that is put to the vote after the making of the report does not attract cross-community support.
- (2) Where this section applies because of the failure of a motion for a resolution under section 51A(1), the Secretary of State may by direction provide that the whole or a specified part of any financial assistance payable for a specified period under the Financial Assistance for Political Parties Act (Northern Ireland) 2000 to the political party concerned shall not be payable (subject to subsection (5)).
- (3) Where this section applies because of the failure of a motion for a resolution under section 51A(2) to extend the period by reference to which a reduction under section 51A(1) falls to be made, the Secretary of State may, before the end of that period, by direction extend that period (subject to subsection (5)).
- (4) Where this section applies because of the failure of a motion for a resolution under section 51A(3) to extend the period by reference to which provision for non-payability under subsection (2) applies, the Secretary of State may, before the end of that period, by direction extend that period (subject to subsection (5)).
- (5) The Secretary of State may exercise the power under subsection (2), (3) or (4) only if he is satisfied that the political party concerned—
  - (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office.
- (6) The period by reference to which provision for non-payability under subsection (2) applies shall come to an end if—
  - (a) the Secretary of State by direction so provides; or
  - (b) the Assembly is dissolved.
- (7) In subsection (1)(a) “the Monitoring Commission” means the Commission mentioned in section 1 of the Northern Ireland (Monitoring Commission etc.) Act 2003.
- (8) In this section a reference to—
  - (a) the period by reference to which provision for non-payability under subsection (2) applies, or
  - (b) the period by reference to which a reduction under section 51A(1) falls to be made,is, where the period has been extended, a reference to the period as extended.

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#### Textual Amendments

**F70** Ss. 51A-51C inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003, {ss. 8}, 12; S.I. 2004/83, **art. 2**

#### Modifications etc. (not altering text)

**C28** S. 51B modified (temp.) (21.4.2004) by The Northern Ireland Act 1998 and Northern Ireland Act 2000 (Modification) Order 2004 (S.I. 2004/1164), **art. 3**

### 51C Sections 51A and 51B: specified periods and extensions

- (1) A period specified under section 51A(1) or 51B(2)—
- (a) shall begin no earlier than the end of the day when the resolution or direction specifying it is passed or given;
  - (b) shall begin no later than the end of the financial year in which that day falls; and
  - (c) shall not be longer than 12 months.
- (2) The power under section 51A(2) or (3) or 51B(3) or (4) to extend a period is a power to extend it until the end of such period of not more than 12 months beginning with the date of the resolution, or direction, by which the power is exercised as the resolution or direction may provide.]

#### Textual Amendments

**F70** Ss. 51A-51C inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003, {ss. 8}, 12; S.I. 2004/83, **art. 2**

### [<sup>F71</sup>51D Censure resolutions

- (1) This section applies to the following resolutions of the Assembly—
- (a) a resolution censuring a Minister or junior Minister—
    - (i) because he is not committed to non-violence and exclusively peaceful and democratic means; or
    - (ii) because of any failure of his to observe any other terms of the pledge of office;
  - (b) a resolution censuring a political party—
    - (i) because it is not committed to non-violence and exclusively peaceful and democratic means; or
    - (ii) because it is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office.
- (2) A motion for a resolution to which this section applies shall not be moved unless—
- (a) it is supported by at least 30 members of the Assembly;
  - (b) it is moved by the First Minister and the deputy First Minister acting jointly; or
  - (c) it is moved by the Presiding Officer in pursuance of a notice under subsection (3).



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- (3) If the Secretary of State is of the opinion that the Assembly ought to consider a resolution to which this section applies, he shall serve a notice on the Presiding Officer requiring him to move a motion for such a resolution.
- (4) In forming an opinion under subsection (3), the Secretary of State shall in particular take into account the matters listed in section 30(7).
- (5) A resolution to which this section applies shall not be passed without cross-community support.]

**Textual Amendments**

**F71** S. 51D inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 9, 12; S.I. 2004/83, art. 2

**PART V**

NSMC, BIC, BIIC ETC.

**<sup>F72</sup>52 North-South Ministerial Council and British-Irish Council.**

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**Textual Amendments**

**F72** Ss. 52A-52C substituted for s. 52 (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 12, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), (with s. 1(3)); S.I. 2007/1397, art. 2

**[<sup>F73</sup>52A North-South Ministerial Council and British-Irish Council**

- (1) The First Minister and the deputy First Minister acting jointly shall, as far in advance of each meeting of the North-South Ministerial Council or the British-Irish Council as is reasonably practicable, give to the Executive Committee and to the Assembly the following information in relation to the meeting—
  - (a) the date;
  - (b) the agenda; and
  - (c) (once determined under this section) the names of the Ministers or junior Ministers who are to attend the meeting.
- (2) Each Minister or junior Minister who has responsibility (whether or not with another Minister or junior Minister) in relation to any matter included in the agenda for a meeting of either Council (“appropriate Minister”) shall be entitled—
  - (a) to attend the meeting; and
  - (b) to participate (see section 52C) in the meeting so far as it relates to that matter.
- (3) An appropriate Minister may nominate another Minister or junior Minister—
  - (a) to attend the meeting in place of the appropriate Minister; and

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- (b) to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility,  
but a person may not be nominated under this subsection without his consent.
- (4) Each appropriate Minister shall notify the First Minister and the deputy First Minister, as soon as reasonably practicable and in any event no later than 10 days before the date of the meeting, that—
- (a) he intends to attend the meeting;
  - (b) he does not intend to attend the meeting but has nominated another person under subsection (3) to attend in his place; or
  - (c) he does not intend to attend the meeting and he does not intend, or has not been able, to make such a nomination,
- and a notification under paragraph (b) shall include the name of the person nominated.
- (5) If the appropriate Minister gives a notification under subsection (4)(c) (or if the First Minister and the deputy First Minister receive no notification from him under subsection (4)), the First Minister and the deputy First Minister acting jointly shall nominate a Minister or junior Minister—
- (a) to attend the meeting in place of the appropriate Minister; and
  - (b) to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility.
- (6) In relation to a matter for which the First Minister and the deputy First Minister are the appropriate Ministers—
- (a) the notification to be made by each of them under subsection (4) shall be made to the other; and
  - (b) if either of them (“A”) gives a notification under subsection (4)(c) (or if the other (“B”) receives no notification from A under subsection (4)), B (acting alone) shall make the nomination under subsection (5) in relation to A.
- (7) The First Minister and the deputy First Minister acting jointly shall make such nominations (or further nominations) of Ministers and junior Ministers (including where appropriate alternative nominations) as they consider necessary to ensure such cross-community participation in either Council as is required by the Belfast Agreement.
- (8) Subsection (9) applies in relation to any matter included in the agenda for a meeting of either Council if—
- (a) the First Minister and the deputy First Minister are not the appropriate Ministers in relation to the matter; but
  - (b) the matter is one that ought, by virtue of section 20(3) or (4), to be considered by the Executive Committee.
- (9) The First Minister and the deputy First Minister acting jointly shall also be entitled—
- (a) to attend the meeting; and
  - (b) to participate in the meeting so far as it relates to that matter.
- (10) In this section “day” does not include a Saturday, a Sunday, Christmas Day, Good Friday and any day which is a bank holiday in Northern Ireland.

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### Textual Amendments

**F73** Ss. 52A-52C substituted for s. 52 (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 12, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), (with s. 1(3)); S.I. 2007/1397, art. 2

## 52B Section 52A: duty to attend Council meetings etc

- (1) It shall be a Ministerial responsibility of—
  - (a) each appropriate Minister; or
  - (b) if a Minister or junior Minister is nominated under section 52A(3) or (5) to attend a meeting of the North-South Ministerial Council or the British-Irish Council in place of an appropriate Minister, that Minister or junior Minister, to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility.
- (2) It shall be a Ministerial responsibility of a Minister or junior Minister nominated to attend a meeting of either Council under section 52A(7) to participate in the meeting so far as specified in the nomination.
- (3) Each appropriate Minister shall give to—
  - (a) a person nominated under section 52A(3) or (5) to attend a meeting of either Council in his place; or
  - (b) a person nominated under section 52A(7) to participate in a meeting of either Council so far as specified in the nomination,such information as may be necessary to enable the person's full participation in the meeting.
- (4) But if the appropriate Minister does not give sufficient information under subsection (3) to enable the person's full participation in the meeting—
  - (a) the First Minister and the deputy First Minister acting jointly may request the necessary information; and
  - (b) if they do so, the appropriate Minister must give that information to the person nominated.
- (5) A person nominated under section 52A(3) or (5) may enter into agreements or arrangements in respect of matters for which the appropriate Minister is (or the appropriate Ministers are) responsible.
- (6) Without prejudice to the operation of section 24, a Minister or junior Minister attending a meeting of either Council by virtue of any provision of section 52A or this section shall act in accordance with any decisions of the Assembly or the Executive Committee (by virtue of section 20) which are relevant to his participation in the Council concerned.
- (7) In this section “appropriate Minister”, in relation to a meeting of the North-South Ministerial Council or the British-Irish Council, has the same meaning as in section 52A.

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#### Textual Amendments

**F73** Ss. 52A-52C substituted for s. 52 (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 12, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), (with s. 1(3)); S.I. 2007/1397, art. 2

### 52C Sections 52A and 52B: supplementary

- (1) If any question arises under section 52A or 52B as to which Minister or junior Minister has responsibility for any matter, the First Minister and the deputy First Minister acting jointly shall determine that question.
- (2) A Minister or junior Minister who participates in a meeting of either the North-South Ministerial Council or the British-Irish Council by virtue of any provision of section 52A or 52B shall, as soon as reasonably practicable after the meeting, make a report—
  - (a) to the Executive Committee; and
  - (b) to the Assembly.
- (3) A report under subsection (2)(b) shall be made orally unless standing orders authorise it to be made in writing.
- (4) The Northern Ireland contributions towards the expenses of the Councils shall be defrayed as expenses of the Office of the First Minister and deputy First Minister.
- (5) In sections 52A and 52B and this section “participate” shall be construed—
  - (a) in relation to the North-South Ministerial Council, in accordance with paragraphs 5 and 6 of Strand Two of the Belfast Agreement;
  - (b) in relation to the British-Irish Council, in accordance with the first paragraph 5 of Strand Three of that Agreement.]

#### Textual Amendments

**F73** Ss. 52A-52C substituted for s. 52 (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 12, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), (with s. 1(3)); S.I. 2007/1397, art. 2

### 53 Agreements etc. by persons participating in Councils.

- (1) This section applies to any agreement or arrangement entered into by a Minister or junior Minister participating, by reason of [<sup>F74</sup>any provision of section 52A or 52B], in a meeting of the North-South Ministerial Council or the British-Irish Council.
- (2) Provision may be made by Act of the Assembly for giving effect to any agreement or arrangement to which this section applies, including provision—
  - (a) for transferring to any body designated by or constituted under the agreement or arrangement any functions which would otherwise be exercisable by any Minister or Northern Ireland department;
  - (b) for transferring to a Minister or Northern Ireland department any functions which would otherwise be exercisable by any authority outside Northern Ireland.

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- (3) Subsection (2) has effect notwithstanding anything in subsection (2)(a) of section 6; but it does not affect—
  - (a) the operation of subsection (2)(b) to (f) of that section; or
  - (b) the operation of section 8 or 15 in relation to the enactment of any Act of the Assembly.
- (4) No agreement or arrangement to which this section applies entered into for the establishment after the appointed day of an implementation body shall come into operation without the approval of the Assembly.
- (5) In subsection (4) “implementation body” means a body for implementing, on the basis mentioned in paragraph 11 of Strand Two of the Belfast Agreement, policies agreed in the North-South Ministerial Council.

#### Textual Amendments

**F74** Words in s. 53(1) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 19, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 7 para. 2} (with s. 1(3)); S.I. 2007/1397, art. 2

#### 54 British-Irish Intergovernmental Conference.

- (1) This section applies where excepted or reserved matters relating to Northern Ireland are to be discussed at a meeting of the British-Irish Intergovernmental Conference.
- (2) The First Minister and the deputy First Minister acting jointly shall ensure that there is such cross-community attendance by Ministers and junior Ministers at the meeting as is required by the Belfast Agreement.

#### Modifications etc. (not altering text)

**C29** S. 54 amended (*temp.* 12.2.2000 - 30.5.2000) by 2000 c. 1, s. 1(5); S.I. 2000/396, art. 2; S.I. 2000/1445, art. 2

#### 55 Implementation bodies.

- (1) The Secretary of State may make an order about any body—
  - (a) which he considers to be an implementation body; and
  - (b) which is, or is to be, established on or before the appointed day.
- (2) An order under this section may make any such provision as may be made (after the appointed day) by Act of the Assembly and may in particular—
  - (a) confer on the body the legal capacities of a body corporate;
  - (b) confer on the body any function which the Secretary of State considers necessary or expedient for the purpose for which it is, or is to be, established;
  - (c) confer on a Northern Ireland department power to make grants to the body out of money appropriated by Act of the Assembly;
  - (d) make provision as to the accounting and audit arrangements which are to apply in relation to the body; and

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- (e) make consequential or supplementary provisions, including provisions amending or repealing any Northern Ireland legislation, or any instrument made under such legislation.
- (3) In this section “implementation body” means a body for implementing, on the basis mentioned in paragraph 11 of Strand Two of the Belfast Agreement, policies agreed in the North-South Ministerial Council.

**Modifications etc. (not altering text)**

**C30** S. 55(2)(b) amended (*temp.* 12.2.2000 - 30.5.2000) by 2000 c. 1, s. 1(7); S.I. 2000/396, art. 2, S.I. 2000/1445, art. 2

**[<sup>F75</sup>56 Civic Forum.**

- (1) The First Minister and the deputy First Minister acting jointly shall make arrangements for obtaining from the Forum its views on social, economic and cultural matters.
- (2) The arrangements so made shall not take effect until after they have been approved by the Assembly.
- (3) The expenses of the Forum shall be defrayed as expenses of the Department of Finance and Personnel.
- (4) In this section “the Forum” means the consultative Civic Forum established in pursuance of paragraph 34 of Strand One of the Belfast Agreement by the First Minister and the deputy First Minister acting jointly.]

**Textual Amendments**

**F75** S. 56 ceases to have effect (*temp.* from 12.2.2000 to 30.5.2000) by virtue of 2000 c. 1, s. 1(8), **Sch. para. 4(d)**; S.I. 2000/396, art. 2, S.I. 2000/1445, art. 2

**Modifications etc. (not altering text)**

**C31** S. 56(3): transfer of functions (26.6.2001) by S.R. 2001/229, art. 3

**PART VI**

FINANCIAL PROVISIONS

*Consolidated Fund*

**57 Consolidated Fund of Northern Ireland.**

- (1) The Consolidated Fund of Northern Ireland shall continue to exist.
- (2) Sums forming part of the Fund—
- (a) shall be appropriated to the public service of Northern Ireland by Act of the Assembly; and
  - (b) shall not be applied for any purpose for which they are not appropriated.

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- (3) Subsection (2) is subject to section 59 and to any provision which charges sums on the Fund and is made—
- (a) by or under an Act of Parliament; or
  - (b) by an Act of the Assembly or other Northern Ireland legislation.

## **58 Payments into the Fund.**

The Secretary of State shall from time to time make payments into the Consolidated Fund of Northern Ireland out of money provided by Parliament of such amounts as he may determine.

## **59 Payments out of Fund without appropriation Act.**

- (1) If an Act is not passed at least three working days before the end of a financial year (“year 1”) authorising the issue out of the Consolidated Fund of Northern Ireland of sums for the service of the next financial year (“year 2”)—
- (a) the authorised officer of the Department of Finance and Personnel may, subject to any Act subsequently passed, authorise the issue of sums out of that Fund for the service of year 2; and
  - (b) the sums so issued shall be appropriated for such services and purposes as the officer may direct.
- (2) The aggregate of the sums issued under subsection (1) for the service of year 2 shall not exceed 75 per cent of the total amount appropriated by Act for the service of year 1.
- (3) If an Act is not passed before the end of July in any financial year authorising the issue out of the Consolidated Fund of Northern Ireland of sums for the service of the year—
- (a) the authorised officer of the Department of Finance and Personnel may, subject to any Act subsequently passed, authorise the issue of sums out of that Fund for the service of the year; and
  - (b) the sums so issued shall be appropriated for such services and purposes as the officer may direct.
- (4) The aggregate of the sums issued under subsection (3), and (where applicable) the sums issued under subsection (1), for the service of any financial year shall not exceed 95 per cent of the total amount appropriated by Act for the service of the preceding financial year.
- (5) In this section—

“Act” means an Act of the Assembly or, in relation to any time before the appointed day, an Order in Council under Schedule 1 to the <sup>M13</sup>Northern Ireland Act 1974;

“authorised officer”, in relation to the Department of Finance and Personnel, means the Permanent Secretary or such other officer as may be nominated by him for the purpose.

### **Marginal Citations**

M13 1974 c.28.

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## **60 Financial control, accounts and audit.**

- (1) In so far as such provision has not been made, an Act of the Assembly or other Northern Ireland legislation shall make provision—
  - (a) for proper accounts to be prepared by the Northern Ireland departments, and by other persons to whom sums are paid directly out of the Consolidated Fund of Northern Ireland, of their expenditure and receipts;
  - (b) for the Department of Finance and Personnel to prepare an account of payments into and out of the Fund;
  - (c) for the Comptroller and Auditor General for Northern Ireland to exercise, or ensure the exercise by other persons of, the functions mentioned in subsection (2);
  - (d) for access by persons exercising those functions to such documents as they may reasonably require;
  - (e) for members of the Northern Ireland Civil Service designated for the purpose to be answerable to the Assembly in respect of the expenditure and receipts of each of the Northern Ireland departments; and
  - (f) for the publication of accounts prepared in pursuance of paragraphs (a) and (b), and of reports on such accounts, and for the laying of such accounts and reports before the Assembly.
- (2) The functions referred to in subsection (1)(c) are—
  - (a) issuing credits for the payment of sums out of the Fund;
  - (b) examining accounts prepared in pursuance of subsection (1)(a) and (b) (which includes determining whether sums paid out of the Fund have been paid out and applied in accordance with section 57), and certifying and reporting on them;
  - (c) carrying out examinations into the economy, efficiency and effectiveness with which the Northern Ireland departments have used their resources in discharging their functions; and
  - (d) carrying out examinations into the economy, efficiency and effectiveness with which other persons determined under Northern Ireland legislation to whom sums are paid directly out of the Fund have used those sums in discharging their functions.
- (3) Standing orders shall make provision for establishing a committee of members of the Assembly to consider accounts, and reports on accounts, laid before the Assembly in pursuance of this section or any other enactment.
- (4) Persons (other than the Comptroller and Auditor General for Northern Ireland) charged with the exercise of any function under subsection (2) or other like function conferred by Northern Ireland legislation shall not, in the exercise of that or any ancillary function, be subject to the direction or control of any Minister or Northern Ireland department or of the Assembly.
- (5) Subsection (2)(b) does not apply to accounts prepared by the Comptroller and Auditor General for Northern Ireland.



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### *Advances*

#### **61 Advances by Secretary of State.**

- (1) The Secretary of State may advance to the Department of Finance and Personnel sums required for the purpose of—
  - (a) meeting a temporary excess of sums to be paid out of the Consolidated Fund of Northern Ireland over sums paid into the Fund; or
  - (b) providing a working balance in the Fund.
- (2) The Treasury may issue to the Secretary of State out of the National Loans Fund any sum which he requires for the making of an advance under this section.
- (3) The aggregate at any time outstanding in respect of the principal of sums advanced under this section shall not exceed £250 million.
- (4) Sums advanced under this section shall be repaid to the Secretary of State at such times and by such methods, and interest on them shall be paid to him at such rates and at such times, as the Treasury may determine.
- (5) Sums received by the Secretary of State under subsection (4) shall be paid into the National Loans Fund.
- (6) Amounts required for the repayment of, or the payment of interest on, sums advanced under this section shall be charged on the Consolidated Fund of Northern Ireland.
- (7) The Secretary of State may by order, with the consent of the Treasury, substitute for the amount specified in subsection (3) such increased amount as may be specified in the order.

#### **62 Accounts.**

- (1) The Secretary of State shall, for each financial year—
  - (a) prepare, in such form and manner as the Treasury may direct, an account of sums paid and received by him under section 61; and
  - (b) send the account to the Comptroller and Auditor General not later than the end of November in the following financial year.
- (2) The Comptroller and Auditor General shall—
  - (a) examine, certify and report on the account; and
  - (b) lay copies of it and his report before each House of Parliament.

### *Miscellaneous*

#### **63 Financial acts of the Assembly.**

- (1) The Assembly may not pass a vote, resolution or Act to which this subsection applies except in pursuance of a recommendation which—
  - (a) is made by the Minister of Finance and Personnel; and
  - (b) is signified to the Assembly by him or on his behalf.
- (2) Subsection (1) applies to a vote, resolution or Act which—
  - (a) imposes or increases a charge on the Consolidated Fund of Northern Ireland;

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- (b) appropriates a sum out of that Fund or increases a sum to be appropriated;
  - (c) releases or compounds a debt owed to the Crown; or
  - (d) imposes or increases a tax.
- (3) Standing orders shall provide that a vote, resolution or Act which—
- (a) appropriates a sum out of the Consolidated Fund of Northern Ireland or increases a sum to be appropriated; or
  - (b) imposes or increases a tax,
- shall not be passed without cross-community support.

#### 64 Draft budgets.

- (1) The Minister of Finance and Personnel shall, before the beginning of each financial year, lay before the Assembly a draft budget, that is to say, a programme of expenditure proposals for that year which has been agreed by the Executive Committee in accordance with paragraph 20 of Strand One of the Belfast Agreement.
- (2) The Assembly may, with cross-community support, approve a draft budget laid before them with or without modification.

#### 65 Audit.

- (1) The Comptroller and Auditor General for Northern Ireland shall be appointed by Her Majesty on the nomination of the Assembly.
- (2) A recommendation shall not be made to Her Majesty for the removal from office of the Comptroller and Auditor General for Northern Ireland unless—
  - (a) the Assembly so resolves; and
  - (b) the resolution is passed with the support of a number of members of the Assembly which equals or exceeds two thirds of the total number of seats in the Assembly.
- (3) The Comptroller and Auditor General for Northern Ireland shall not, in the exercise of any of his functions, be subject to the direction or control of any Minister or Northern Ireland department or of the Assembly; but this subsection does not apply in relation to any function conferred on him of preparing accounts.
- (4) The accounts of the Consolidated Fund of Northern Ireland shall be audited by the Comptroller and Auditor General for Northern Ireland in accordance with the <sup>M14</sup>Exchequer and Audit Act Northern Ireland) 1921.
- (5) Subsection (4) is subject to any provision of an Act of the Assembly or other Northern Ireland legislation.
- (6) The Assembly shall not have power under Article 4(1) of the <sup>M15</sup>Audit (Northern Ireland) Order 1987 to pass at any time a resolution which reduces the salary payable to a person holding the office of Comptroller and Auditor General for Northern Ireland at that time.

#### Modifications etc. (not altering text)

**C32** S. 65(1) amended (*temp.* 12.2.2000 - 30.5.2000) by 2000 c. 1, s. 1(8), **Sch. para. 11(1)**; S.I. 2000/396, **art. 2**; S.I. 2000/1445, **art. 2**

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#### Marginal Citations

**M14** 1921 c.2 (N.I.).

**M15** S.I. 1987/460 (N.I.5).

### 66 Expenses of Northern Ireland Audit Office.

- (1) Standing orders shall make provision for establishing a committee of members of the Assembly to exercise, in place of the Department of Finance and Personnel, the functions conferred on that Department by Article 6(2) of the Audit (Northern Ireland) Order 1987 (expenses of Northern Ireland Audit Office).
- (2) No more than one member of the committee established under subsection (3) of section 60 may be a member of the committee established under this section.
- (3) The committee established under this section shall, in discharging its functions, have regard to the advice of the committee established under that subsection and of the Department of Finance and Personnel.

#### Modifications etc. (not altering text)

**C33** S. 66: Functions exercisable (*temp.* 12.2.2000 - 30.5.2000) by 2000 c. 1, s. 1(8), **Sch. para. 4(1)(e)**; S.I. 2000/396, **art. 2**, S.I. 2000/1445, art. 2

### 67 Provision of information to Treasury.

- (1) The Treasury may require the Northern Ireland Ministers and departments to provide, within such period as the Treasury may specify, such information, in such form and prepared in such manner, as the Treasury may specify.
- (2) If the information is not in their possession or under their control, their duty under subsection (1) is to take all reasonable steps to comply with the requirement.

## PART VII

### HUMAN RIGHTS AND EQUAL OPPORTUNITIES

#### *Human rights*

### 68 The Northern Ireland Human Rights Commission.

- (1) There shall be a body corporate to be known as the Northern Ireland Human Rights Commission.
- (2) The Commission shall consist of a Chief Commissioner and other Commissioners appointed by the Secretary of State.
- (3) In making appointments under this section, the Secretary of State shall as far as practicable secure that the Commissioners, as a group, are representative of the community in Northern Ireland.

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- (4) Schedule 7 (which makes supplementary provision about the Commission) shall have effect.

#### Commencement Information

- I3** S. 68 wholly in force at 1.3.1999; s. 68 not in force at Royal Assent see s. 101(3); s. 68 in force for certain purposes at 15.2.1999 and for all other purposes at 1.3.1999 by S.I. 1999/340, art. 2(1), **Sch. Pt. 1**

### 69 The Commission's functions.

- (1) The Commission shall keep under review the adequacy and effectiveness in Northern Ireland of law and practice relating to the protection of human rights.
- (2) The Commission shall, before the end of the period of two years beginning with the commencement of this section, make to the Secretary of State such recommendations as it thinks fit for improving—
  - (a) its effectiveness;
  - (b) the adequacy and effectiveness of the functions conferred on it by this Part; and
  - (c) the adequacy and effectiveness of the provisions of this Part relating to it.
- (3) The Commission shall advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to protect human rights—
  - (a) as soon as reasonably practicable after receipt of a general or specific request for advice; and
  - (b) on such other occasions as the Commission thinks appropriate.
- (4) The Commission shall advise the Assembly whether a Bill is compatible with human rights—
  - (a) as soon as reasonably practicable after receipt of a request for advice; and
  - (b) on such other occasions as the Commission thinks appropriate.
- (5) The Commission may—
  - (a) give assistance to individuals in accordance with section 70; and
  - (b) bring proceedings involving law or practice relating to the protection of human rights.
- (6) The Commission shall promote understanding and awareness of the importance of human rights in Northern Ireland; and for this purpose it may undertake, commission or provide financial or other assistance for—
  - (a) research; and
  - (b) educational activities.
- (7) The Secretary of State shall request the Commission to provide advice of the kind referred to in paragraph 4 of the Human Rights section of the Belfast Agreement.
- [<sup>F76</sup>(8A) The Commission shall publish a report of its findings on an investigation.]
- (8) For the purpose of exercising its functions under this section the Commission may conduct such investigations as it considers necessary or expedient.

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- (9) The Commission may decide to publish its advice and the outcome of its research<sup>F77</sup>  
.....
- (10) The Commission shall do all that it can to ensure the establishment of the committee referred to in paragraph 10 of that section of that Agreement.
- (11) In this section—
- (a) a reference to the Assembly includes a reference to a committee of the Assembly;
  - (b) “human rights” includes the Convention rights.

#### Textual Amendments

**F76** S. 69(8A) inserted (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 18(1), 53; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

**F77** Words in s. 69(9) omitted (1.8.2007) and repealed (prosp.) by virtue of Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 18(2), 50, 53, Sch. 7; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

#### Modifications etc. (not altering text)

**C34** S. 69(2) modified (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 19, 53; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

#### Commencement Information

**I4** S. 69 wholly in force at 2.12.1999; s. 69 not in force at Royal Assent see s. 101(3); s. 69(1)-(3) in force for specified purposes and 69(6)-(11) in force at 1.3.1999 by S.I. 1999/340, art. 2(3), Sch. Pt. 3; s. 69(5) in force at 1.6.1999 by S.I. 1999/340, art. 2(5), Sch. Pt. 4; s. 69(4) in force and s. 69(3) in force insofar as not already in force at 2.12.1999 by S.I. 1999/3209, art. 2, Sch.

### [<sup>F78</sup>69A Investigations: evidence

- (1) For the purpose of an investigation under section 69(8) the Commission may by notice in writing require a person—
- (a) to provide information in his possession,
  - (b) to produce documents in his possession, or
  - (c) to give oral evidence.
- (2) A notice may include provision about—
- (a) the form of information, documents or evidence;
  - (b) timing.
- (3) A notice—
- (a) may not require a person to provide information that he is prohibited from disclosing by virtue of an enactment,
  - (b) may not require a person to do anything that he could not be compelled to do in proceedings before the High Court, and
  - (c) may not require a person to attend at a place unless the Commission undertakes to pay the expenses of his journey.
- (4) The Commission may issue a notice under subsection (1) only if it has—
- (a) considered whether the matter to which the notice relates has already been sufficiently investigated by another person, and

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- (b) concluded that it has not.
- (5) The recipient of a notice may apply to a county court to have the notice cancelled on the grounds that the requirement imposed by the notice—
  - (a) is unnecessary having regard to the purpose of the investigation to which the notice relates,
  - (b) contravenes subsection (4) or section 69D, or
  - (c) is otherwise unreasonable.
- (6) Subsection (7) applies where the Commission thinks that a person—
  - (a) has failed without reasonable excuse to comply with a notice, or
  - (b) is likely to fail without reasonable excuse to comply with a notice.
- (7) The Commission may apply to a county court for an order requiring a person to take such steps as may be specified in the order to comply with the notice.
- (8) A person commits an offence if without reasonable excuse he—
  - (a) fails to comply with a notice,
  - (b) fails to comply with an order under subsection (7),
  - (c) falsifies anything provided or produced in accordance with a notice or order, or
  - (d) makes a false statement in giving oral evidence in accordance with a notice.
- (9) A person who is guilty of an offence under subsection (8) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (10) A notice under this section may not require the Public Prosecution Service for Northern Ireland to supply documents or evidence about a decision whether or not to institute or continue criminal proceedings.

#### Textual Amendments

**F78** Ss. 69A, 69B inserted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\)](#), [ss. 15, 53](#) (with [s. 20](#)); [S.I. 2007/2045](#), [art. 2\(2\)\(3\)\(j\)](#) (with [art. 3](#))

### 69B Investigations: national security

- (1) Where a person is given a notice under section 69A(1) he shall disregard it, and notify the Commission that he is disregarding it, in so far as he thinks it would require him—
  - (a) to disclose sensitive information within the meaning of paragraph 4 of Schedule 3 to the Intelligence Services Act 1994 (c. 13) (Intelligence and Security Committee),
  - (b) to disclose information which might lead to the identification of an employee or agent of an intelligence service (other than one whose identity is already known to the Commission),
  - (c) to disclose information which might provide details of processes used in recruiting, selecting or training employees or agents of an intelligence service,
  - (d) to disclose information which might provide details of, or cannot practicably be separated from, information falling within any of paragraphs (a) to (c),
  - (e) to make a disclosure of information relating to an intelligence service which would prejudice the interests of national security, or

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- (f) to make a disclosure of information relating to the Police Service of Northern Ireland which would prejudice the interests of national security.
- (2) Where in response to a notice under section 69A(1) a person gives a notice to the Commission under subsection (1) above—
  - (a) section 69A(7) and (8) shall not apply in relation to that part of the notice under section 69A(1) to which the notice under subsection (1) above relates,
  - (b) the Commission may apply to the tribunal established by section 65 of the Regulation of Investigatory Powers Act 2000 (c. 23) for an order requiring the person to take such steps as may be specified in the order to comply with the notice,
  - (c) the following provisions of that Act shall apply in relation to proceedings under this subsection as they apply in relation to proceedings under that Act (with any necessary modifications)—
    - (i) section 67(7), (8) and (10) to (12) (determination),
    - (ii) section 68 (procedure), and
    - (iii) section 69 (rules), and
  - (d) the tribunal shall determine proceedings under this subsection by considering the opinion of the person who gave the notice under subsection (1) above in accordance with the principles that would be applied by a court on an application for judicial review of the giving of the notice.
- (3) Where the Commission receives information or documents from or relating to an intelligence service in response to a notice under section 69A(1), the Commission shall store and use the information or documents in accordance with any arrangements specified by the Secretary of State.
- (4) The recipient of a notice under section 69A(1) may apply to the High Court to have the notice cancelled on the grounds that the requirement imposed by the notice is undesirable for reasons of national security, other than for the reason that it would require a disclosure of a kind to which subsection (1) above applies.
- (5) An investigation under section 69(8) may not consider—
  - (a) whether an intelligence service has acted (or is acting) in a way which is incompatible with a person's human rights, or
  - (b) other matters concerning human rights in relation to an intelligence service.
- (6) In this section “intelligence service” means—
  - (a) the Security Service,
  - (b) the Secret Intelligence Service, and
  - (c) the Government Communications Headquarters.]

#### Textual Amendments

**F78** Ss. 69A, 69B inserted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\)](#), **ss. 15, 53** (with s. 20); [S.I. 2007/2045](#), **art. 2(2)(3)(j)** (with art. 3)

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### [<sup>F79</sup>69C Investigations: places of detention

- (1) For the purpose of an investigation under section 69(8) a person authorised in writing by the Commission may enter a specified place of detention in Northern Ireland on one or more occasions during a specified period.
- (2) In subsection (1) “specified” means specified in the terms of reference of the investigation.
- (3) In subsection (1) “place of detention” means—
  - (a) a prison specified in the Schedule to the Prisons and Young Offenders Centres Rules (Northern Ireland) 1995,
  - (b) a place used for the purpose of detaining arrested persons in a police station designated under Article 36 of the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)),
  - (c) a place designated under paragraph 1 of Schedule 8 to the Terrorism Act 2000 (c. 11) (detention),
  - (d) in a building where a court sits, a place used for the purpose of detaining arrested persons,
  - (e) a juvenile justice centre provided under Article 51 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (S.I. 1998/1504 (N.I. 9)),
  - (f) the secure accommodation in Bangor provided and used in accordance with Article 44 of the Children (Northern Ireland) Order 1995 (S.I. 1995/755 (N.I. 2)),
  - (g) a removal centre or short-term holding facility within the meaning of section 147 of the Immigration and Asylum Act 1999 (c. 33), and
  - (h) any accommodation (including accommodation in a hospital) provided for the purpose of detention under the Mental Health (Northern Ireland) Order 1986 (S.I. 1986/595 (N.I. 4)).
- (4) The Commission may specify a place of detention in the terms of reference of an investigation only if it has—
  - (a) considered whether the matter in respect of which the place is specified has already been sufficiently investigated by another person, and
  - (b) concluded that it has not.
- (5) The power under subsection (1) may not be exercised—
  - (a) during the period of 15 days beginning with that on which copies of the terms of reference of the investigation are provided in accordance with section 69D(1)(b), or
  - (b) while an application under subsection (6), made during that period, has not yet been determined.
- (6) A county court may, on the application of a person who appears to the court to be responsible for a place of detention specified in terms of reference—
  - (a) order that the power under subsection (1) may not be used to enter the place of detention;
  - (b) impose restrictions on the exercise of the power in relation to the place of detention;
  - (c) require the Commission to amend the terms of reference.
- (7) An order may be made under subsection (6) only if the court thinks that—



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- (a) access to the place of detention is unnecessary having regard to the purpose of the investigation,
  - (b) it would be unreasonable to allow the Commission access to the place of detention, or
  - (c) the Commission has failed to comply with subsection (4) or section 69D.
- (8) In considering whether to make an order under subsection (6), and in considering the terms of an order under subsection (6)(b), the court shall have regard, in particular, to the likely impact of the use of the power under subsection (1) on the operation of the place of detention.
- (9) If a person obstructs the Commission in the exercise of the power under subsection (1) the Commission may apply to a county court for an order requiring the person not to obstruct the Commission.
- (10) A person commits an offence if without reasonable excuse he fails to comply with an order under subsection (9).
- (11) A person who is guilty of an offence under subsection (10) shall be liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (12) The Secretary of State may by order amend subsection (3).]

#### Textual Amendments

**F79** S. 69C inserted (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 16(1), 53 (with s. 20); S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

#### [<sup>F80</sup>69D Investigations: terms of reference

- (1) A power under section 69A(1) or 69C(1) may be used in relation to an investigation only if the Commission has—
- (a) prepared terms of reference for the investigation in advance, and
  - (b) sent a copy of the terms of reference to—
    - (i) any person identified in them,
    - (ii) a person responsible for any place of detention specified in them, and
    - (iii) any other person whom the Commission thinks may be affected by the investigation.
- (2) Terms of reference must specify a period within which the investigation must be concluded.
- (3) Subsection (2) does not prevent the Commission from commencing (in accordance with this Part) a new investigation of matters arising out of, or incompletely considered in, an earlier investigation.]

#### Textual Amendments

**F80** S. 69D inserted (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 17(1), 53; S.I. 2007/2045, art. 2(2)(3)(j) (with art. 3)

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## 70 Assistance by Commission.

- (1) This section applies to—
  - (a) proceedings involving law or practice relating to the protection of human rights which a person in Northern Ireland has commenced, or wishes to commence; or
  - (b) proceedings in the course of which such a person relies, or wishes to rely, on such law or practice.
- (2) Where the person applies to the Northern Ireland Human Rights Commission for assistance in relation to proceedings to which this section applies, the Commission may grant the application on any of the following grounds—
  - (a) that the case raises a question of principle;
  - (b) that it would be unreasonable to expect the person to deal with the case without assistance because of its complexity, or because of the person's position in relation to another person involved, or for some other reason;
  - (c) that there are other special circumstances which make it appropriate for the Commission to provide assistance.
- (3) Where the Commission grants an application under subsection (2) it may—
  - (a) provide, or arrange for the provision of, legal advice;
  - (b) arrange for the provision of legal representation;
  - (c) provide any other assistance which it thinks appropriate.
- (4) Arrangements made by the Commission for the provision of assistance to a person may include provision for recovery of expenses from the person in certain circumstances.

## 71 Restrictions on application of rights.

- (1) Nothing in [<sup>F81</sup>section 6(2)(c) or 24(1)(a)] shall enable a person—
    - (a) to bring any proceedings in a court or tribunal on the ground that any legislation or act is incompatible with the Convention rights; or
    - (b) to rely on any of the Convention rights in any such proceedings,
 unless he would be a victim for the purposes of article 34 of the Convention if proceedings in respect of the legislation or act were brought in the European Court of Human Rights.
  - (2) Subsection (1) does not apply to the Attorney General, the Attorney General for Northern Ireland, the Advocate General for Scotland or the Lord Advocate.
- [<sup>F82</sup>(2A) Subsection (1) does not apply to the Commission.
- (2B) In relation to the Commission's instituting, or intervening in, human rights proceedings—
    - (a) the Commission need not be a victim or potential victim of the unlawful act to which the proceedings relate,
    - (b) section 7(3) and (4) of the Human Rights Act 1998 (c. 42) (breach of Convention rights: sufficient interest, &c.) shall not apply,
    - (c) the Commission may act only if there is or would be one or more victims of the unlawful act, and
    - (d) no award of damages may be made to the Commission (whether or not the exception in section 8(3) of that Act applies).

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- (2C) For the purposes of subsection (2B)—
- (a) “human rights proceedings” means proceedings which rely (wholly or partly) on—
    - (i) section 7(1)(b) of the Human Rights Act 1998, or
    - (ii) section 69(5)(b) of this Act, and
  - (b) an expression used in subsection (2B) and in section 7 of the Human Rights Act 1998 has the same meaning in subsection (2B) as in section 7.]
- (3) Section 6(2)(c)—
- (a) does not apply to a provision of an Act of the Assembly if the passing of the Act is, by virtue of subsection (2) of section 6 of the <sup>M16</sup>Human Rights Act 1998, not unlawful under subsection (1) of that section; and
  - (b) does not enable a court or tribunal to award in respect of the passing of an Act of the Assembly any damages which it could not award on finding the passing of the Act unlawful under that subsection.
- (4) Section 24(1)(a)—
- (a) does not apply to an act which, by virtue of subsection (2) of section 6 of the Human Rights Act 1998, is not unlawful under subsection (1) of that section; and
  - (b) does not enable a court or tribunal to award in respect of an act any damages which it could not award on finding the act unlawful under that subsection.
- (5) In this section “the Convention” has the same meaning as in the Human Rights Act 1998.

#### Textual Amendments

**F81** Words in s. 71(1) substituted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 14\(1\), 53; S.I. 2007/2045, art. 2\(2\)\(3\)\(j\)](#) (with art. 3)

**F82** S. 71(2A)-(2C) inserted (1.8.2007) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 14\(2\), 53; S.I. 2007/2045, art. 2\(2\)\(3\)\(j\)](#) (with art. 3)

#### Commencement Information

**I5** S. 71 fully in force; s. 71 not in force at Royal Assent see s. 101(3); s. 71(1) in force for specified purposes at 1.6.1999 by [S.I. 1999/340, art. 2\(5\), Sch. Pt. 4](#); s. 71(2)(5) in force at 1.6.1999 by [S.I. 1999/340, art. 2\(5\), Sch. Pt. 4](#); s. 71(3)(4) in force and s. 71(1) in force insofar as not already in force at 2.12.1999 by [S.I. 1999/3209, art. 2, Sch.](#)

#### Marginal Citations

**M16** 1998 c.42.

## 72 Standing Advisory Commission on Human Rights: dissolution.

**F83** .....

#### Textual Amendments

**F83** S. 72 repealed (22.7.2004) by [Statute Law \(Repeals\) Act 2004 \(c. 14\), s. 1](#), {Sch. 1 Pt. 5 Group 11}

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### *Equality of opportunity*

#### **73 The Equality Commission for Northern Ireland.**

- (1) There shall be a body corporate to be known as the Equality Commission for Northern Ireland.
- (2) The Commission shall consist of not less than 14 nor more than 20 Commissioners appointed by the Secretary of State.
- (3) The Secretary of State shall appoint—
  - (a) one Commissioner as Chief Commissioner; and
  - (b) at least one Commissioner as Deputy Chief Commissioner.
- (4) In making appointments under this section, the Secretary of State shall as far as practicable secure that the Commissioners, as a group, are representative of the community in Northern Ireland.
- (5) Schedule 8 (which makes supplementary provision about the Commission) shall have effect.

#### **Modifications etc. (not altering text)**

**C35** S. 73(5): transfer of certain functions (1.12.1999) by S.R. 1999/481, arts. 1, 4, **Sch. 2 Pt. I**

#### **Commencement Information**

**I6** S. 73 partly in force; s. 73 not in force at Royal Assent see s. 101(3); s. 73 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; s. 73(1) in force for further specified purposes and s. 73(2)-(5) in force at 2.8.1999 and s. 73(1) in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, **arts. 2, 3**

#### **74 The Commission’s principal functions.**

- (1) The functions exercisable by the bodies listed in subsection (2) shall instead be exercisable by the Equality Commission; and the bodies listed are hereby dissolved.
- (2) Those bodies are—
  - (a) the Fair Employment Commission for Northern Ireland;
  - (b) the Equal Opportunities Commission for Northern Ireland;
  - (c) the Commission for Racial Equality for Northern Ireland;
  - (d) the Northern Ireland Disability Council.
- (3) In exercising its functions the Equality Commission shall—
  - (a) aim to secure an appropriate division of resources between the functions previously exercisable by each of the bodies listed in subsection (2); and
  - (b) have regard to advice offered by a consultative council.
- (4) In subsection (3) “consultative council” means a group of persons selected by the Commission to advise in relation to the functions previously exercisable by one of the bodies listed in subsection (2) or in relation to the Commission’s functions under Schedule 9.

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- (5) The Secretary of State may by order make such supplemental, incidental or consequential provision as appears to him to be appropriate as a result of subsections (1) and (2).
- (6) In particular, an order may include provision—
  - (a) amending an enactment;
  - (b) for the transfer of rights and liabilities;
  - (c) for payments into the Consolidated Fund or to a specified person.

#### Commencement Information

- I7** S. 74 wholly in force at 1.10.1999; s. 74 not in force at Royal Assent see s. 101(3); s. 74 in force at 21.6.1999 for specified purposes by S.I. 1999/1753, art. 2; s. 74 in force at 1.10.1999 insofar as not in force already by S.I. 1999/2204, art. 3

## 75 Statutory duty on public authorities.

- (1) A public authority shall in carrying out its functions relating to Northern Ireland have due regard to the need to promote equality of opportunity—
  - (a) between persons of different religious belief, political opinion, racial group, age, marital status or sexual orientation;
  - (b) between men and women generally;
  - (c) between persons with a disability and persons without;and
  - (d) between persons with dependants and persons without.
- (2) Without prejudice to its obligations under subsection (1), a public authority shall in carrying out its functions relating to Northern Ireland have regard to the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.
- (3) In this section “public authority” means—
  - (a) any department, corporation or body listed in Schedule 2 to the <sup>M17</sup>Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation) and designated for the purposes of this section by order made by the Secretary of State;
  - (b) any body (other than the Equality Commission) listed in Schedule 2 to the <sup>M18</sup>Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
  - (c) any department or other authority listed in Schedule 2 to the <sup>M19</sup>Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
  - <sup>F84</sup>(cc) the Northern Ireland Policing Board, the Chief Constable of the Police Service of Northern Ireland and the Police Ombudsman for Northern Ireland;]
  - <sup>F85</sup>(cd) the Director of Public Prosecutions for Northern Ireland;]
  - <sup>F86</sup>(ce) the Chief Inspector of Criminal Justice in Northern Ireland;
  - (cf) the Northern Ireland Law Commission;]
  - (d) any other person designated for the purposes of this section by order made by the Secretary of State.

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- (4) Schedule 9 (which makes provision for the enforcement of the duties under this section) shall have effect.
- [<sup>F87</sup>(4A) The references in subsections (1) and (2) and Schedule 9 to the functions of the Director of Public Prosecutions for Northern Ireland do not include any of his functions relating to the prosecution of offences [<sup>F88</sup>or any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations)] .]
- (5) In this section—  
“disability” has the same meaning as in the <sup>M20</sup>Disability Discrimination Act 1995; and  
“racial group” has the same meaning as in the <sup>M21</sup>Race Relations (Northern Ireland) Order 1997.

#### Textual Amendments

- F84** S. 75(3)(cc) inserted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 24(2)**; S.R. 2001/396, **art. 2 Sch.**
- F85** S. 75(3)(cd) inserted (1.6.2006) by 2002 c. 26, ss. 38(2), 87(1); S.R. 2005/281, **art. 5**
- F86** S. 75(3)(ce)(cf) inserted (1.1.2005 for certain purposes and otherwise 16.4.2007) by 2002 c. 26, ss. 85, 87(1), **Sch. 12 para. 63**; S.R. 2004/502, **art. 2(b)**; S.R. 2007/237, **art. 2, Sch. para. 6(c)**
- F87** S. 75(4A) inserted (1.6.2006) by 2002 c. 26, ss. 38(3), 87(1); S.R. 2005/281, **art. 5**
- F88** Words in s. 75(4A) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), ss. 74(2), 94, **Sch. 8 para. 158(1)**; S.I. 2008/755, **art. 2(1)(a)** (subject to arts. 3-14))

#### Modifications etc. (not altering text)

- C36** S. 75(1)(2) excluded (6.4.2008) by Serious Crime Act 2007 (c. 27), ss. 37, 94, **Sch. 2 para. 19**; S.I. 2008/755, **art. 15(1)(h)**

#### Commencement Information

- I8** S. 75 wholly in force at 1.1.2000; s. 75 not in force at Royal Assent see s. 101(3); s. 75(3)(a)(d) in force for specified purposes at 1.3.1999 by S.I. 1999/340, **art. 2(4)**; s. 75(4) in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, **art. 3**; s. 75 in force at 1.1.2000 insofar as not already in force by S.I. 1999/2204, **art. 4**

#### Marginal Citations

- M17** 1967 c.13.  
**M18** S.I. 1996/1297 (N.I.7).  
**M19** S.I. 1996/1298 (N.I.8).  
**M20** 1995 c.50.  
**M21** S.I. 1997/869 (N.I.6).

## 76 Discrimination by public authorities.

- (1) It shall be unlawful for a public authority carrying out functions relating to Northern Ireland to discriminate, or to aid or incite another person to discriminate, against a person or class of person on the ground of religious belief or political opinion.
- (2) An act which contravenes this section is actionable in Northern Ireland at the instance of any person adversely affected by it; and the court may—

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- (a) grant damages;
  - (b) subject to subsection (3), grant an injunction restraining the defendant from committing, causing or permitting further contraventions of this section.
- (3) Without prejudice to any other power to grant an injunction, a court may grant an injunction under subsection (2) only if satisfied that the defendant—
- (a) contravened this section on the occasion complained of and on more than one previous occasion; and
  - (b) is likely to contravene this section again unless restrained by an injunction.
- (4) This section does not apply in relation to any act or omission which is unlawful by virtue of the [<sup>F89</sup>Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of [<sup>F89</sup>Part VIII of that Order].
- (5) Subsection (1) applies to the making, confirmation or approval of subordinate legislation only if—
- (a) the legislation contains a provision which discriminates against a person or class of person on the ground of religious belief or political opinion; and
  - (b) the provision extends only to the whole or any part of Northern Ireland.
- (6) Where it is alleged that subsection (1) applies to the making, confirmation or approval of subordinate legislation, subsection (2) shall not apply but the contravention may be relied upon in legal proceedings relating to the validity of the subordinate legislation.
- (7) The following are public authorities for the purposes of this section—
- (a) a Minister of the Crown;
  - (b) any department, corporation or body listed in Schedule 2 to the <sup>M22</sup>Parliamentary Commissioner Act 1967 (departments, corporations and bodies subject to investigation);
  - (c) any body listed in Schedule 2 to the <sup>M23</sup>Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
  - (d) any authority (other than a Northern Ireland department) listed in Schedule 2 to the <sup>M24</sup>Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation);
  - [<sup>F90</sup>(e) the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve and the Police Ombudsman for Northern Ireland;]
  - [<sup>F91</sup>(ea) the Director of Public Prosecutions for Northern Ireland;]
  - (f) the Probation Board for Northern Ireland; and
  - [<sup>F92</sup>(fa) the Chief Inspector of Criminal Justice in Northern Ireland;
  - (fb) the Northern Ireland Law Commission;]
  - (g) [<sup>F93</sup>a universal service provider (within the meaning of the Postal Services Act 2000) so far as carrying out functions in connection with the provision of a universal postal service (within the meaning of that Act)].
- [<sup>F94</sup>(8) This section does not apply to a decision of the Director of Public Prosecutions for Northern Ireland not to institute, or to discontinue, criminal proceedings or, where such a decision has been made, to any act done for the purpose of enabling the decision whether to institute or continue the proceedings to be made or for securing that the proceedings are discontinued.

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(9) No injunction may be granted in respect of a contravention of this section by the Director of Public Prosecutions for Northern Ireland unless the court is satisfied that it would not prejudice any decision to institute criminal proceedings or any criminal proceedings.

(10) Where a party to proceedings for a contravention of this section applies for a stay of those proceedings on the ground of prejudice to a decision to institute criminal proceedings, or of prejudice to particular criminal proceedings, the court must grant the stay unless it is satisfied that continuance of the proceedings for the contravention would not result in the prejudice alleged.]

[<sup>F95</sup>(11) The reference in subsection (1) to the functions of the Director of Public Prosecutions for Northern Ireland does not include any of the functions conferred on him by, or in relation to, Part 5 or 8 of the Proceeds of Crime Act 2002 (c. 29) (civil recovery of the proceeds etc. of unlawful conduct, civil recovery investigations and disclosure orders in relation to confiscation investigations).]

#### Textual Amendments

- F89** Words in s. 76(4) substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(1), **Sch. 3**; S.R. 1999/81, **art. 3(1)**
- F90** S. 76(7)(e) substituted (30.3.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 24(3)**; S.R. 2001/132, art. 2, **Sch.**
- F91** S. 76(7)(ea) inserted (1.6.2006) by 2002 c. 26, ss. 38(4), 87(1); S.R. 2005/281, **art. 5**
- F92** S. 76(7)(fa)(fb) inserted (1.1.2005 for certain purposes and otherwise 16.4.2007) by 2002 c. 26, ss. 85, 87(1), **Sch. 12 para. 64**; S.R. 2004/502, **art. 2(b)**; S.R. 2007/237, **art. 2**, **Sch. para. 6(c)**
- F93** Words in s. 76(7)(g) substituted (26.3.2001) by S.I. 2001/1149, art. 3(1), **Sch. 1 para. 121**
- F94** S. 76(8)(9)(10) inserted (1.6.2006) by 2002 c. 26, ss. 38(5), 87(1); S.R. 2005/281, **art. 5**
- F95** S. 76(11) inserted (1.4.2008) by Serious Crime Act 2007 (c. 27), ss. 74(2), 94, **Sch. 8 para. 158(2)**; S.I. 2008/755, **art. 2(1)(a)** (subject to arts. 3-14))

#### Modifications etc. (not altering text)

- C37** S. 76(1) excluded (6.4.2008) by Serious Crime Act 2007 (c. 27), ss. 37, 94, **Sch. 2 para. 19**; S.I. 2008/755, **art. 15(h)**

#### Marginal Citations

- M22** 1967 c.13.
- M23** S.I. 1996/1297 (N.I.7).
- M24** S.I. 1996/1298 (N.I.8).

## 77 Unlawful oaths etc.

- (1) Subject to subsections (2) and (3), an authority or body to which this section applies may not require a person to take an oath or make a declaration as a condition of—
- being appointed to the authority or body;
  - acting as a member of the authority or body; or
  - serving with or being employed by the authority or body.
- (2) Subsection (1) shall not prevent a person being required to take an oath, or make a declaration, which is expressly required or authorised by the law in force immediately before this section comes into force.



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- (3) Subsection (1) shall not prevent a person being required to make a declaration—
- (a) of acceptance of office;
  - (b) that he is qualified to act, serve or be employed in a capacity; or
  - (c) that he is not disqualified from acting, serving or being employed in a capacity.
- (4) This section applies to—
- (a) the Assembly;
  - (b) the Northern Ireland Assembly Commission;
  - (c) any body listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);
  - (d) any authority (other than a Northern Ireland department) listed in Schedule 2 to the <sup>M25</sup>Ombudsman (Northern Ireland) Order 1996 (departments and other authorities subject to investigation); and
  - (e) the Probation Board for Northern Ireland.
- (5) Subsections (1) to (3) apply with the necessary modifications to a Minister and a Northern Ireland department.
- (6) An act which contravenes this section is actionable in Northern Ireland at the instance of any person adversely affected by it; and the court may—
- (a) grant damages;
  - (b) subject to subsection (7), grant an injunction restraining the defendant from committing, causing or permitting further contraventions of this section.
- (7) Without prejudice to any other power to grant an injunction, a court may grant an injunction under subsection (6) only if satisfied that the defendant—
- (a) contravened this section on the occasion complained of and on more than one previous occasion; and
  - (b) is likely to contravene this section again unless restrained by an injunction.
- (8) In this section a reference to a declaration includes a reference to any kind of undertaking or affirmation, by whatever name.

#### **Marginal Citations**

**M25** S.I. 1996/1298 (N.I.8).

### **78 Removal of restrictions on investigation into maladministration.**

- (1) The provisions mentioned in subsection (2) (which preclude an investigation when the person aggrieved has or had a remedy by way of proceedings in a court of law) shall not apply to an investigation of a complaint alleging maladministration involving—
- (a) discrimination, or aiding or inciting any person to discriminate, on the ground of religious belief or political opinion; or
  - (b) a requirement in contravention of section 77 to take an oath or make a declaration (within the meaning of that section).
- (2) The provisions are—
- (a) section 5(2)(b) of the <sup>M26</sup>Parliamentary Commissioner Act 1967;

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- (b) Article 9(3)(b) of the <sup>M27</sup>Commissioner for Complaints (Northern Ireland) Order 1996; and
- (c) Article 10(3)(b) of the Ombudsman (Northern Ireland) Order 1996.

#### Marginal Citations

**M26** 1967 c.13.

**M27** S.I. 1996/1297 (N.I.7).

## PART VIII

### MISCELLANEOUS

#### *Judicial scrutiny*

#### 79 Devolution issues.

Schedule 10 (which makes provision in relation to devolution issues) shall have effect.

#### Commencement Information

**I9** S. 79 wholly in force at 2.12.1999; s. 79 not in force at Royal Assent see s. 101(3); s. 79 in force for specified purposes at 1.3.1999 by S.I. 1999/340, art. 2(3), Sch. Pt. 3; s. 79 in force at 2.12.1999 insofar as not already in force by S.I. 1999/3209, art. 2, Sch.

#### 80 Legislative power to remedy ultra vires acts.

- (1) The Secretary of State may by order make such provision as he considers necessary or expedient in consequence of—
  - (a) any provision of an Act of the Assembly which is not, or may not be, within the legislative competence of the Assembly; or
  - (b) any purported exercise by a Minister or Northern Ireland department of his or its functions which is not, or may not be, a valid exercise of those functions.
- (2) An order under this section may—
  - (a) make provision having retrospective effect;
  - (b) make consequential or supplementary provision, including provision amending or repealing any Northern Ireland legislation, or any instrument made under such legislation;
  - (c) make transitional or saving provision.

#### 81 Powers of courts or tribunals to vary retrospective decisions.

- (1) This section applies where any court or tribunal decides that—
  - (a) any provision of an Act of the Assembly is not within the legislative competence of the Assembly; or

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- (b) a Minister or Northern Ireland department does not have the power to make, confirm or approve a provision of subordinate legislation that he or it has purported to make, confirm or approve.
- (2) The court or tribunal may make an order—
  - (a) removing or limiting any retrospective effect of the decision; or
  - (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.
- (3) In deciding whether to make an order under this section, the court or tribunal shall (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected.
- (4) Where a court or tribunal is considering whether to make an order under this section, it shall order notice of that fact to be given to—
  - (a) the Attorney General for Northern Ireland; and
  - (b) where the decision mentioned in subsection (1) relates to a devolution issue (within the meaning of Schedule 10), the appropriate authority,unless the person to whom the notice would be given is a party to the proceedings.
- (5) A person to whom notice is given under subsection (4) or, where such notice is given to the First Minister and the deputy First Minister, those Ministers acting jointly may take part as a party in the proceedings so far as they relate to the making of the order.
- (6) Paragraphs 37 and 38 of Schedule 10 apply with necessary modifications for the purposes of subsections (4) and (5) as they apply for the purposes of that Schedule.
- (7) In this section “the appropriate authority” means—
  - (a) in relation to proceedings in Northern Ireland, the First Minister and the deputy First Minister;
  - (b) in relation to proceedings in England and Wales, the Attorney General;
  - (c) in relation to proceedings in Scotland, the Lord Advocate and the Advocate General for Scotland.

## 82 The Judicial Committee.

F96 .....

### Textual Amendments

**F96** S. 82 repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 146, 148, Sch. 9 para. 113, [Sch. 18 Pt. 5](#); S.I. 2009/1604, [art. 2\(f\)](#)

### Commencement Information

**I10** S. 82 wholly in force at 2.12.1999; s. 82 not in force at Royal Assent see [s. 101\(3\)](#); [s. 82\(3\)-\(5\)](#) in force at 1.3.1999 by [S.I. 1999/340](#), [art. 2\(3\)](#), [Sch. Pt. 3](#); [s. 82\(1\)\(2\)](#) in force at 2.12.1999 by [S.I. 1999/3209](#), [art. 2](#), [Sch.](#)

## 83 Interpretation of Acts of the Assembly etc.

- (1) This section applies where—

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- (a) any provision of an Act of the Assembly, or of a Bill for such an Act, could be read either—
    - (i) in such a way as to be within the legislative competence of the Assembly; or
    - (ii) in such a way as to be outside that competence; or
  - (b) any provision of subordinate legislation made, confirmed or approved, or purporting to be made, confirmed or approved, by a Northern Ireland authority could be read either—
    - (i) in such a way as not to be invalid by reason of section 24 or, as the case may be, section 76; or
    - (ii) in such a way as to be invalid by reason of that section.
- (2) The provision shall be read in the way which makes it within that competence or, as the case may be, does not make it invalid by reason of that section, and shall have effect accordingly.
- (3) In this section “Northern Ireland authority” means a Minister, a Northern Ireland department or a public authority (within the meaning of section 76) carrying out functions relating to Northern Ireland.

*Power to make provision by Order in Council*

**84 Provision with respect to certain matters relating to Northern Ireland.**

- (1) Her Majesty may by Order in Council make provision with respect to elections (but not the franchise) and boundaries in respect of district councils in Northern Ireland.
- [<sup>F97</sup>(1A) The power in subsection (1) includes power to make provision with respect to polls at elections for district councillors when they are combined with polls at other elections.]
- (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—
- (a) Northern Ireland legislation; or
  - (b) any Act of Parliament 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 (1) or (2) may contain such consequential and supplemental provisions as appear to Her Majesty to be necessary or expedient.
- (4) 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 laid before and approved by resolution of each House of Parliament.

**Textual Amendments**

**F97** S. 85(1A) inserted (10.4.2001) by 2001 c. 7, s. 3(4)

**Modifications etc. (not altering text)**

**C38** S. 84(1) extended (10.4.2001) by 2001 c. 7, s. 4, Sch. Pt. III para. 33

**C39** S. 84(4) amended (16.2.2001) by 2000 c. 41, s. 7(3) (with s. 156(6)); S.I. 2001/222, art. 2, Sch. 1 Pt. I

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## **85 Provision dealing with certain reserved matters.**

- (1) Her Majesty may by Order in Council make provision dealing with any matter falling within a description specified in any of paragraphs 9 to 17 of Schedule 3 (a “relevant matter”), including—
  - (a) provision having retrospective effect;
  - (b) provision for the delegation of functions;
  - (c) provision amending or repealing any provision made by or under any Act of Parliament or Northern Ireland legislation.
- (2) An Order in Council under this section may—
  - (a) make provision ancillary to provisions (whether in the Order or previously enacted) which deal with any relevant matter;
  - (b) make such consequential, incidental, supplemental, or transitional provision as appears to Her Majesty to be necessary or expedient.
- (3) 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 laid before and approved by resolution of each House of Parliament.
- (4) No draft may be laid under subsection (3) unless—
  - (a) the Secretary of State has laid before Parliament a document which contains a draft of the proposed Order;
  - (b) the Secretary of State has referred the document to the Assembly for its consideration; and
  - (c) the period of 60 days beginning with the day on which the document was laid before Parliament has ended.
- (5) The Assembly may report to the Secretary of State the views expressed in the Assembly on the proposed Order and shall do so if the Secretary of State so requests.
- (6) The draft laid under subsection (3) must be accompanied—
  - (a) if representations have been made during the period mentioned in subsection (4), by a statement containing a summary of the representations;
  - (b) if a report has been made to the Secretary of State under subsection (5) during that period, by a copy of the report; and
  - (c) if, as a result of any representations or report so made, the proposed Order has been changed, by a statement containing details of the changes.
- (7) Subsection (3) does not apply to an Order in Council which declares that it has been made to appear to Her Majesty that by reason of urgency the Order requires to be made without a draft having been approved as mentioned in that subsection.
- (8) Where an Order in Council contains a declaration such as is mentioned in subsection (7)—
  - (a) the Order shall be laid before Parliament after being made; and
  - (b) if at the end of the period of 40 days after the date on which the Order is made it has not been approved by resolution of each House, it shall then cease to have effect (but without prejudice to anything previously done under it or to the making of a new Order).
- (9) In reckoning the periods mentioned in subsections (4) and (8), no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

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- (10) References to Acts of the Assembly in any enactment or instrument shall, so far as the context permits, be deemed to include references to Orders in Council under this section.
- (11) Orders in Council under this section may be omitted from any annual edition of statutory instruments made by virtue of section 8 of the <sup>M28</sup>Statutory Instruments Act 1946.
- (12) In this section “representations” means representations about a proposed Order in Council under this section made to the Secretary of State and includes—
- (a) any relevant resolution of either House of Parliament or of the Assembly; and
  - (b) any relevant report or resolution of any committee of either House of Parliament or of the Assembly.

**Modifications etc. (not altering text)**

**C40** S. 85(3)-(8) excluded (N.I.) (27.7.1999) by 1999 c. 23, ss. 66(1)

**Marginal Citations**

**M28** 1946 c.36.

**86 Provision for purposes consequential on Act etc.**

- (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 4 or 6.
- (2) Orders under subsection (1) may make provision for transferring to a United Kingdom authority, with effect from any date specified in the Order—
- (a) any functions which immediately before that date are exercisable by a Northern Ireland authority and appear to Her Majesty to be concerned with a matter which is an excepted or reserved matter [<sup>F98</sup>other than by virtue of an Order under section 4];
  - (b) any functions which immediately before that date are exercisable by a Northern Ireland authority and appear to Her Majesty not to be exercisable in or as regards Northern Ireland by virtue of an Order under section 6.
- (3) Orders under subsection (1) may make provision for transferring to a Northern Ireland authority, with effect from any date specified in the Order—
- (a) any functions which immediately before that date are exercisable by a United Kingdom authority and appear to Her Majesty to be concerned with a matter which is a transferred matter [<sup>F98</sup>other than by virtue of an Order under section 4];
  - (b) any functions which immediately before that date are exercisable by a United Kingdom authority and appear to Her Majesty to be exercisable in or as regards Northern Ireland by virtue of an Order under section 6.
- [<sup>F99</sup>(3A) An Order under subsection (1) in relation to an Order under section 4 may make provision doing any of the following—

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- (a) transferring to a United Kingdom authority, with effect from any date specified in the Order under subsection (1), any function which immediately before that date is exercisable by a Northern Ireland authority;
  - (b) transferring to a Northern Ireland authority, with effect from any date specified in the Order under subsection (1), any function which immediately before that date is exercisable by a United Kingdom authority;
  - (c) conferring a function on a United Kingdom authority or a Northern Ireland authority;
  - (d) removing a function from a United Kingdom authority or a Northern Ireland authority.]
- (4) An Order under subsection (1) may make provision, 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 4 or 6—
- (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.
- (5) Where such provision as is mentioned in subsection (3)(b) has been made by Order in Council under subsection (1), Her Majesty may, if it appears to Her necessary or expedient to do so, by Order in Council—
- (a) provide that the functions transferred to the Northern Ireland authority shall be exercisable by a United Kingdom authority, either alone or concurrently with the Northern Ireland authority; and
  - (b) make such provision as is mentioned in subsection (4)(a) to (c).
- (6) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (7) In this section “Northern Ireland authority” means—
- (a) a Minister or a Northern Ireland department;
  - (b) the Comptroller and Auditor General for Northern Ireland; or
  - (c) any other public body or holder of public office in Northern Ireland.
- (8) In this section “United Kingdom authority” means—
- (a) the Privy Council;
  - (b) any Minister of the Crown;
  - (c) the Defence Council;
  - (d) the Commissioners of Inland Revenue;
  - (e) the Commissioners of Customs and Excise;
  - (f) the Comptroller and Auditor General; or
  - (g) any other public body or holder of public office in the United Kingdom.

#### Textual Amendments

- F98** Words in s. 86(2)(a)(3)(a) substituted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 4(2), 5
- F99** S. 86(3A) inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 4(3), 5

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### [<sup>F100</sup>86A Provision for transfer of functions relating to extradition etc.

- (1) Her Majesty may by Order in Council make provision amending—
  - (a) the Crime (International Co-operation) Act 2003; or
  - (b) the Extradition Act 2003,
 for the purpose of transferring to a Minister or a Northern Ireland department, with effect from any date specified in the Order, any relevant function under the Act.
- (2) In subsection (1) “relevant function” means a function which, immediately before the date specified in the Order,—
  - (a) is exercisable by a Minister of the Crown; and
  - (b) is exercisable in relation to Northern Ireland.
- (3) An Order under subsection (1) may make provision, to such extent as may appear to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, the Order—
  - (a) for transferring or apportioning any property, rights or liabilities;
  - (b) for substituting any body or person for any other body or person in any charter, contract or other document or in any legal proceedings;
  - (c) for any other transitional or consequential matter.
- (4) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

**F100** S. 86A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 19, 31; S.I. 2009/448, art. 2

### [<sup>F101</sup>86B Provision for entrenching enactments

- (1) Her Majesty may by Order in Council make provision amending section 7 so as to provide for—
  - (a) enactments to become entrenched; or
  - (b) enactments that are entrenched by virtue of an Order under paragraph (a) to cease to be entrenched.
- (2) For the purposes of this section an enactment is entrenched if section 7 prevents it from being modified by an Act of the Assembly or subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department.
- (3) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

**F101** S. 86B inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 20, 31; S.I. 2009/448, art. 2



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### *Social security, child support and pensions*

#### **87 Consultation and co-ordination.**

- (1) The Secretary of State and the Northern Ireland Minister having responsibility for social security (“the Northern Ireland Minister”) shall from time to time consult one another with a view to securing that, to the extent agreed between them, the legislation to which this section applies provides single systems of social security, child support and pensions for the United Kingdom.
- (2) Without prejudice to section 28, the Secretary of State with the consent of the Treasury, and the Northern Ireland Minister with the consent of the Department of Finance and Personnel, may make—
  - (a) arrangements for co-ordinating the operation of the legislation to which this section applies with a view to securing that, to the extent allowed for in the arrangements, it provides single systems of social security, child support and pensions for the United Kingdom; and
  - (b) reciprocal arrangements for co-ordinating the operation of so much of the legislation as operates differently in relation to Great Britain and in relation to Northern Ireland.
- (3) Such arrangements as are mentioned in subsection (2)(a) or (b) may include provision for making any necessary financial adjustments, other than adjustments between the National Insurance Fund and the Northern Ireland National Insurance Fund.
- (4) The Secretary of State may make regulations for giving effect to arrangements under subsection (2); and any such regulations may for the purposes of the arrangements provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Great Britain;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the enactments in force in Northern Ireland have a corresponding effect in relation to Great Britain (but not so as to confer any double benefit); and
  - (c) for determining, in cases where rights accrue both in relation to Great Britain and in relation to Northern Ireland, which of those rights shall be available to the person concerned.
- (5) The Northern Ireland department having responsibility for social security may make regulations for giving effect to arrangements under subsection (2); and any such regulations may for the purposes of the arrangements provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Northern Ireland;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the enactments in force in Great Britain have a corresponding effect in relation to Northern Ireland (but not so as to confer any double benefit); and
  - (c) for determining, in cases where rights accrue both in relation to Northern Ireland and in relation to Great Britain, which of those rights shall be available to the person concerned.
- (6) This section applies to—

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- (a) the <sup>M29</sup>Social Security Contributions and Benefits Act 1992 and the <sup>M30</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (b) the <sup>M31</sup>Social Security Administration Act 1992 and the <sup>M32</sup>Social Security Administration (Northern Ireland) Act 1992;
- (c) the <sup>M33</sup>Child Support Act 1991 and the <sup>M34</sup>Child Support (Northern Ireland) Order 1991;
- (d) the <sup>M35</sup>Social Security Pensions Act 1975 and the <sup>M36</sup>Social Security Pensions (Northern Ireland) Order 1975;
- (e) the <sup>M37</sup>Social Security Act 1989 and the <sup>M38</sup>Social Security (Northern Ireland) Order 1989;
- (f) the <sup>M39</sup>Disability (Grants) Act 1993;
- (g) the <sup>M40</sup>Pension Schemes Act 1993 and the <sup>M41</sup>Pensions Schemes (Northern Ireland) Act 1993;
- (h) the <sup>M42</sup>Social Security (Incapacity for Work) Act 1994 and the <sup>M43</sup>Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
- (i) the <sup>M44</sup>Jobseekers Act 1995 and the <sup>M45</sup>Jobseekers (Northern Ireland) Order 1995;
- (j) the <sup>M46</sup>Pensions Act 1995 and the <sup>M47</sup>Pensions (Northern Ireland) Order 1995;
- (k) the <sup>M48</sup>Child Support Act 1995 and the <sup>M49</sup>Child Support (Northern Ireland) Order 1995;
- (l) the <sup>M50</sup>Social Security (Recovery of Benefits) Act 1997 and the <sup>M51</sup>Social Security (Recovery of Benefits) (Northern Ireland) Order 1997;
- (m) the <sup>M52</sup>Social Security Act 1998 and the <sup>M53</sup>Social Security (Northern Ireland) Order 1998.
- [<sup>F102</sup>(n) the Welfare Reform and Pensions Act 1999 and the Welfare Reform and Pensions (Northern Ireland) Order 1999]
- [<sup>F103</sup>(o) the Child Support, Pensions and Social Security Act 2000 and the Child Support, Pensions and Social Security Act (Northern Ireland) 2000]
- [<sup>F104</sup>(p) the Social Security Fraud Act 2001 and the Social Security Fraud Act (Northern Ireland) 2001
  - [ the State Pension Credit Act 2002 and the State Pension Credit Act (Northern Ireland) 2002]
- [<sup>F105</sup>(q)
  - [ the Age-Related Payments Act 2004 and the Age-Related Payments (Northern Ireland) Order 2004;
- (s) the Pensions Act 2004 and the Pensions (Northern Ireland) Order 2005]
- [<sup>F106</sup>(r)
  - [ the Welfare Reform Act 2007 and the Welfare Reform Act (Northern Ireland) 2007;
- (u) the Pensions Act 2007 and the Pensions Act (Northern Ireland) 2008]]
- [<sup>F107</sup>(t)
  - [ the Welfare Reform Act 2007 and the Welfare Reform Act (Northern Ireland) 2007;
- (u) the Pensions Act 2007 and the Pensions Act (Northern Ireland) 2008]]
- [<sup>F108</sup>(v) the Child Maintenance and Other Payments Act 2008, the Mesothelioma, etc., Act (Northern Ireland) 2008, and the Child Maintenance Act (Northern Ireland) 2008;
- (w) the Pensions Act 2008 and the Pensions (No. 2) Act (Northern Ireland) 2008.]
- [<sup>F109</sup>(6A) But this section does not apply to the legislation referred to in subsection (6) to the extent that it relates to child benefit or guardian’s allowance.]
- (7) Her Majesty may by Order in Council make any modifications of subsection (6) which She considers necessary or expedient.

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- (8) The following provisions (which are superseded by this section and section 88) shall cease to have effect—
- (a) sections 177 and 178 of the Social Security Administration Act 1992 (co-ordination and reciprocity with Northern Ireland);
  - (b) sections 153 and 154 of the Social Security Administration (Northern Ireland) Act 1992 (co-ordination and reciprocity with Great Britain);
  - (c) section 56(2) to (4) of the Child Support Act 1991 (co-ordination with Northern Ireland);
  - (d) Article 49(2) and (3) of the Child Support (Northern Ireland) Order 1991 (co-ordination with Great Britain);
  - (e) section 29(2) to (4) of the Child Support Act 1995 (co-ordination with Northern Ireland);
  - (f) Article 20 of the Child Support (Northern Ireland) Order 1995 (co-ordination with Great Britain).
- (9) Section 189 of the <sup>M54</sup>Social Security Administration Act 1992 (regulations and orders: general) shall apply in relation to the power conferred by subsection (4) as it applied in relation to the power conferred by section 177(4) of that Act.
- (10) The power conferred by subsection (5) shall be construed as if it had been conferred by an Act of the Assembly; and section 165 of the <sup>M55</sup>Social Security Administration (Northern Ireland) Act 1992 (regulations and orders: general) shall apply in relation to that power as it applied in relation to the power conferred by section 153(3) of that Act.
- (11) A statutory instrument containing an Order in Council under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F102** S. 87(6)(n) added (13.4.2000) by [S.I. 2000/741](#), [art. 2](#)
- F103** S. 87(6)(o) added (4.1.2001) by [S.I. 2000/3254](#), [art. 2](#)
- F104** S. 87(6)(p) added (15.3.2002) by [S.I. 2002/265](#), [art. 2](#)
- F105** S. 87(6)(q) inserted (19.8.2003) by [The Northern Ireland Act 1998 \(Modification\) Order 2003 \(S.I. 2003/1890\)](#), [art. 2](#)
- F106** S. 87(6)(r)(s) inserted (15.11.2006) by [The Northern Ireland Act 1998 \(Modification\) Order 2006 \(S.I. 2006/2659\)](#), [art. 2](#)
- F107** S. 87(6)(t)(u) inserted (18.6.2008) by [The Northern Ireland Act 1998 \(Modification\) Order 2008](#) (S.I. 2008/1242), {art. 2}
- F108** S. 87(6)(v)(w) inserted (20.5.2009) by [The Northern Ireland Act 1998 \(Modification\) Order 2009 \(S.I. 2009/885\)](#), [art. 2](#)
- F109** S. 87(6A) inserted (8.7.2002) by [2002 c. 21](#), [s. 64\(3\)\(4\)](#)

#### Marginal Citations

- M29** 1992 c.4.
- M30** 1992 c.7.
- M31** 1992 c.5.
- M32** 1992 c.8.
- M33** 1991 c.48.
- M34** [S.I. 1991/2628 \(N.I.23\)](#).
- M35** 1975 c.60.
- M36** [S.I. 1975/1503 \(N.I.16\)](#).
- M37** 1989 c.24.

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- M38 S.I. 1989/1342 (N.I.13).
- M39 1993 c.14.
- M40 1993 c.48.
- M41 1993 c.49.
- M42 1994 c.18.
- M43 S.I. 1994/1898 (N.I.12).
- M44 1995 c.18.
- M45 S.I. 1995/2705 (N.I.15).
- M46 1995 c.26.
- M47 S.I. 1995/3213 (N.I.22).
- M48 1995 c.34.
- M49 S.I. 1995/2702 (N.I.13).
- M50 1997 c.27.
- M51 S.I. 1997/1183 (N.I.12)
- M52 1998 c.14.
- M53 S.I. 1998/1506 (N.I.10).
- M54 1992 c.5.
- M55 1992 c.8.

## 88 The Joint Authority.

- (1) The Joint Authority continued in being by section 177(2) of the Social Security Administration Act 1992—
  - (a) shall consist of the Secretary of State, the Northern Ireland Minister having responsibility for social security and the Chancellor of the Exchequer; and
  - (b) shall continue in being by the name of the Social Security, Child Support and Pensions Joint Authority for the purposes of the legislation to which section 87 applies.
- (2) The responsibility of the Joint Authority shall include that of giving effect to arrangements under section 87(2), with power to discharge such functions as may be provided under the arrangements.
- (3) The Joint Authority shall also have <sup>F110</sup>power—
  - (a) to require the making by the Commissioners of Inland Revenue of any necessary adjustments between the National Insurance Fund and the Northern Ireland National Insurance Fund, and
  - (b) to make any other necessary financial adjustments.]
- (4) The Joint Authority shall continue—
  - (a) to be a body corporate; and
  - (b) to have an official seal which shall be officially and judicially noticed;
 and the seal of the Authority may be authenticated by any member of, or the secretary to, the Authority, or by any person authorised by the Authority to act on behalf of the secretary.
- (5) Any member of the Joint Authority shall be entitled, subject to and in accordance with any rules laid down by the Authority, to appoint a deputy to act for him at meetings of the Authority.
- (6) The <sup>M56</sup>Documentary Evidence Act 1868 shall apply to the Joint Authority as if the Authority were included in the first column of the Schedule to that Act and—

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- (a) as if any member or the secretary, or any person authorised to act on behalf of the secretary, of the Authority were mentioned in the second column of that Schedule; and
- (b) as if the regulations referred to in that Act included any document issued by the Authority.

#### Textual Amendments

**F110** Words in s. 88(3) substituted (1.4.1999) by 1999 c. 2, s. 2, **Sch. 3 para. 65**; S.I. 1999/527, art. 2(b), **Sch. 2**

#### Marginal Citations

**M56** 1868 c.37.

## 89 Industrial Injuries Advisory Council.

- (1) For subsection (1) of section 149 of the Social Security Administration (Northern Ireland) Act 1992 (Social Security Advisory Committee) substitute—

“(1) The Department may from time to time—

- (a) refer to the Social Security Advisory Committee for consideration and advice such questions relating to the operation of any of the relevant enactments as the Department thinks fit (including questions as to the advisability of amending any of them);
- (b) refer to the Industrial Injuries Advisory Council for consideration and advice such questions as the Department thinks fit relating to industrial injuries benefit or its administration.”

- (2) After subsection (2) of that section insert—

“(2A) Subject—

- (a) to subsection (3) below; and
- (b) to section 150 below,

where the Department proposes to make regulations relating only to industrial injuries benefit or its administration, it shall refer the proposals, in the form of draft regulations or otherwise, to the Industrial Injuries Advisory Council for consideration and advice.”

- (3) At the end of subsection (3) of that section insert “; and subsection (2A) above does not apply to the regulations specified in Schedule 5A to this Act”.

- (4) After that subsection insert—

“(3A) The Industrial Injuries Advisory Council may also give advice to the Department on any other matter relating to industrial injuries benefit or its administration.”

- (5) In subsections (1), (2) and (5) of section 150 of that Act (cases in which consultation not required), after “the Committee”, in each place, insert “or the Council”.

- (6) In subsection (3) of that section—

- (a) after “the Committee”, in the first place, insert “or the Council”; and

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- (b) after “the Committee has made its report” insert “ or, as the case may be, the Council has given its advice ”.
- (7) In subsection (6) of that section, after the definition of “the Committee” insert—
- ““the Council” means the Industrial Injuries Advisory Council;”.
- (8) After Schedule 5 to that Act insert—

“SCHEDULE 5A

REGULATIONS NOT REQUIRING PRIOR SUBMISSION  
TO INDUSTRIAL INJURIES ADVISORY COUNCIL

- 1 Regulations under section 120(1)(b) of the Contributions and Benefits Act.
  - 2 Regulations which state that they contain only provisions in consequence of an order under section 129 or 132 above.
  - 3 Regulations made within a period of 6 months from the passing of any Act passed after this Act and directed to be construed as one with this Act, where—
    - (a) the regulations state that they contain only regulations to make provision consequential on the passing of the Act; and
    - (b) the Act does not exclude this paragraph in respect of the regulations; and in this paragraph “Act” includes an Act of the Northern Ireland Assembly.
  - 4 Regulations which state that they contain only regulations making with respect to industrial injuries benefit or its administration the same or substantially the same provision as has been, or is to be, made with respect to other benefit as defined in section 121(1) of the Contributions and Benefits Act or its administration.
  - 5 Regulations which state that the only provision with respect to industrial injuries benefit or its administration that is made by the regulations is the same or substantially the same as provision made by the instrument with respect to other benefit as defined in section 121(1) of the Contributions and Benefits Act or its administration.
  - 6 Regulations made for the purpose only of consolidating other regulations revoked by them.
  - 7 Regulations making only provision corresponding to provision contained in regulations made by the Secretary of State or the Lord Chancellor in relation to Great Britain.”
- (9) In section 192(5) of the <sup>M57</sup>Social Security Administration Act 1992, after the entry relating to section 170 (with Schedule 5) insert— “ section 171 (with Schedule 6); ”.

**Marginal Citations**

M57 1992 c.5.

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*Discrimination: certificates by Secretary of State*

**90 Effect of certificates.**

- (1) This section applies where in any proceedings—
  - (a) a person claims that an act discriminated against him in contravention of section 24 or 76; and
  - (b) the person against whom the claim is made proposes to rely on a certificate purporting to be signed by or on behalf of the Secretary of State and certifying—
    - (i) that an act specified in the certificate was done for the purpose of safeguarding national security or protecting public safety or public order; and
    - (ii) that the doing of the act was justified by that purpose.
- (2) The claimant may, in accordance with rules <sup>F111</sup>made under section 91], appeal against the certificate to the Tribunal, that is to say, the tribunal established under section 91.
- (3) If on an appeal under subsection (2) the Tribunal determines—
  - (a) that the act specified in the certificate was done for the certified purpose; and
  - (b) that the doing of the act was justified by that purpose,the Tribunal shall uphold the certificate; in any other case, the Tribunal shall quash the certificate.
- (4) If—
  - (a) the claimant does not appeal against the certificate; or
  - (b) the certificate is upheld on appeal,the certificate shall be conclusive evidence of the matters certified by it.
- (5) In this section “act” does not include the making, confirmation or approval of a provision of subordinate legislation.

**Textual Amendments**

**F111** Words in s. 90(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 5 para. 105](#); [S.I. 2006/1014, art. 2\(a\), Sch. 1 para. 12\(b\)](#)

**91 The Tribunal.**

- (1) There shall be a tribunal in relation to which Schedule 11 shall have effect.
  - (2) The Lord Chancellor may <sup>F112</sup>, after consultation with the Lord Chief Justice of Northern Ireland,] make rules—
    - (a) for regulating the exercise of rights of appeal to the Tribunal;
    - (b) for prescribing the practice and procedure to be followed on or in connection with appeals to the Tribunal, including the mode and burden of proof and admissibility of evidence on such appeals; and
    - (c) for other matters preliminary or incidental to or arising out of such appeals.
- <sup>F113</sup>(2A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (2)—

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- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]
- (3) Rules under this section may provide that—
- (a) a party to any proceedings before the Tribunal on an appeal; and
  - (b) where the Secretary of State is not party to any such proceedings, the Secretary of State,
- has the right to be legally represented in the proceedings, subject to any power conferred on the Tribunal by such rules.
- (4) Rules under this section may, in particular—
- (a) make provision enabling proceedings before the Tribunal to take place without a party being given full particulars of the reasons for the issue of the certificate which is the subject of the appeal;
  - (b) make provision enabling the Tribunal to hold proceedings in the absence of any person, including a party and any legal representative appointed by a party;
  - (c) make provision about the functions in proceedings before the Tribunal of persons appointed under subsection (7); and
  - (d) make provision enabling the Tribunal to give a party a summary of any evidence taken in his absence.
- (5) Rules under this section may also include provision—
- (a) enabling any functions of the Tribunal which relate to matters preliminary or incidental to an appeal to be performed by a single member of the Tribunal; or
  - (b) conferring on the Tribunal such ancillary powers as the Lord Chancellor thinks necessary for the purposes of the exercise of its functions.
- (6) In making rules under this section, the Lord Chancellor shall have regard, in particular, to—
- (a) the need to secure that certificates which are the subject of appeals are properly reviewed; and
  - (b) the need to secure that information is not disclosed contrary to the public interest.
- (7) The Attorney General for Northern Ireland may appoint a person to represent the interests of a party to proceedings before the Tribunal in any proceedings from which he and any legal representative of his are excluded.
- (8) A person appointed under subsection (7)—
- (a) shall be a member of the Bar of Northern Ireland;
  - (b) shall not be responsible to the party whose interests he represents.
- (9) In this section and section 92 “party”, in relation to proceedings on appeal, means the appellants or the person proposing to rely on the certificate which is the subject of the appeal.

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#### Textual Amendments

**F112** Words in s. 91(2) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 5 para. 106\(2\)](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(b)



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**F113** S. 91(2A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 106(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(b)

#### Modifications etc. (not altering text)

- C41** S. 91 applied (16.8.1999) by S.I. 1998/3162 (N.I. 21), **arts. 80(5)**, 96, 98; S.R. 1999/355, **art. 2(a)**  
**C42** S. 91 applied (N.I.) (1.10.2006) by The Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006/261), **reg. 30(5)** (with reg. 50)  
**C43** S. 91 applied (N.I.) (1.1.2007) by The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (S.R. 2006/439), **reg. 51(5)** (with regs. 5(4), 16(3)(4), 26, 53)

#### Commencement Information

- I11** S. 91 wholly in force at 2.8.1999; s. 91 not in force at Royal Assent see s. 101(3); s. 91(1) in force for specified purposes at 15.2.1999 and s. 91(2)-(6) in force at 1.3.1999 by S.I. 1999/340, **art. 2(2)(3)**, Sch. Pts. 2, 3; s. 91 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, **art. 5**

## 92 Appeals from the Tribunal.

- (1) Where the Tribunal has determined an appeal under section 90—  
(a) any party to the appeal; or  
(b) where the Secretary of State was not a party to the appeal, the Secretary of State,  
may bring a further appeal to the Court of Appeal in Northern Ireland on any question of law material to the Tribunal's determination.
- (2) An appeal under this section may be brought only with the leave of the Tribunal or, if such leave is refused, with the leave of the Court of Appeal in Northern Ireland.
- (3) The Lord Chancellor may [<sup>F114</sup>, after consultation with the Lord Chief Justice of Northern Ireland,] make rules regulating, and prescribing the procedure to be followed on, applications to the Tribunal for leave to appeal under this section.
- [<sup>F115</sup>(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (3)—  
(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;  
(b) a Lord Justice of Appeal (as defined in section 88 of that Act).]
- (4) Rules under this section may include provision enabling an application for leave to appeal to be heard by a single member of the Tribunal.

#### Textual Amendments

- F114** Words in s. 92(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 107(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(b)  
**F115** S. 92(3A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 107(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(b)

#### Modifications etc. (not altering text)

- C44** S. 92 applied (1.3.1999) by S.I. 1998/3162 (N.I. 21), **arts. 80(5)**, 96, 98; S.R. 1999/81, **art. 3(1)**  
**C45** S. 92 applied (N.I.) (1.10.2006) by The Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006/261), **reg. 30(5)** (with reg. 50)

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**C46** S. 92 applied (N.I.) (1.1.2007) by [The Equality Act \(Sexual Orientation\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/439\)](#), [reg. 51\(5\)](#) (with regs. 5(4), 16(3)(4), 26, 53)

#### Commencement Information

**I12** S. 92 wholly in force at 2.8.1999; s. 92 not in force at Royal Assent see [s. 101\(3\)](#); [s. 92\(3\)\(4\)](#) in force at 1.3.1999 by [S.I. 1999/340](#), [art. 2\(3\)](#), [Sch. Pt. 3](#); s. 92 in force at 2.8.1999 insofar as not already in force by [S.I. 1999/2204](#), [art. 5](#)

### Miscellaneous

#### 93 Parliament Buildings etc.

- (1) Subject to subsection (2), property in relation to which section 31(4) of the <sup>M58</sup>Northern Ireland Constitution Act 1973 had effect (property held in trust for Parliament of Northern Ireland etc.) shall on and after the commencement of this section be applied for the purposes of the Assembly or such other purposes as the Department of the Environment (“the Department”) may determine.
- (2) The Secretary of State may require the Department to make available to him in any premises comprised in the property mentioned in subsection (1) (other than the Parliament Buildings at Stormont) such accommodation and facilities as he may specify.
- (3) The Secretary of State shall in consideration of the use of any such accommodation and facilities make to the Department such payments out of money provided by Parliament as he and the Department may agree.
- (4) In so far as any of the property mentioned in subsection (1) was not immediately before the commencement of this section vested in the Department it shall vest in the Department at that commencement; and subsections (1) and (2) shall have effect notwithstanding anything in any deed or other instrument relating to the property to which those subsections apply.

#### Modifications etc. (not altering text)

- C47** S. 93: transfer of certain functions (1.12.1999) by [S.R. 1999/481](#), [arts. 1, 6](#), [Sch. 4 Pt. II](#)
- C48** S. 93(2) restricted (N.I.) (9.3.2006) by [The Stormont Estate \(Northern Ireland\) Order 2006 \(S.I. 2006/612\)](#), [art. 3\(4\)](#)

#### Marginal Citations

**M58** 1973 c.36.

#### 94 Land purchase annuities etc.

- (1) Subject to subsection (2), land purchase annuities shall be collected by the Department of Agriculture and paid into the Consolidated Fund of Northern Ireland.
- (2) A land purchase annuity may be extinguished by, or redeemed with the agreement of, the Department of Agriculture.
- (3) The Irish Land Purchase Fund shall be wound up and the money standing to its credit shall be paid into the Consolidated Fund of the United Kingdom.

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- (4) In this section “land purchase annuities” means annuities for the repayment of advances made under any enactment relating to land purchase in Northern Ireland.

## PART IX

### SUPPLEMENTAL

#### 95 Savings for existing laws.

- (1) Except so far as otherwise provided by or under this Act, nothing in this Act shall affect the operation in or in relation to Northern Ireland of any law in force on the appointed day or passed or made before that day, including in particular Orders in Council made under—
- (a) section 69 of the <sup>M59</sup>Government of Ireland Act 1920;
  - (b) section 1(3) of the <sup>M60</sup>Northern Ireland (Temporary Provisions) Act 1972;
  - (c) section 38 or 39 of the <sup>M61</sup>Northern Ireland Constitution Act 1973; or
  - (d) Schedule 1 to the <sup>M62</sup>Northern Ireland Act 1974.
- (2) The laws continued by section 61 of the <sup>M63</sup>Government of Ireland Act 1920 shall continue to have effect to the extent provided for by that section (but with any modification necessary for adapting them to this Act).
- (3) No law made by the Assembly shall have effect so as to prejudice or diminish the rights or privileges of any pensioned officer of a local authority under the provisions of the Local Government (Ireland) Acts 1898 to 1919.
- (4) No provision of this Act shall—
- (a) affect the operation before the coming into force of that provision of any Northern Ireland legislation; or
  - (b) render unlawful anything required or authorised to be done by any Act of Parliament, whenever passed.
- (5) Schedule 12 (which provides for the construction of certain references in existing laws) shall have effect, but subject to any provision made by or under this Act or by any Act of the Assembly.

#### Commencement Information

**I13** S. 95 wholly in force at 2.12.1999; s. 95 not in force at Royal Assent see s. 101(3); s. 95(5) in force for specified purposes at 1.10.1999 by S.I. 1999/2204, art. 3; s. 95(1)-(4) in force and s. 95(5) in force insofar as not already in force at 2.12.1999 by S.I. 1999/3209, art. 2, Sch.

#### Marginal Citations

**M59** 1920 c. 67.  
**M60** 1972 c.22.  
**M61** 1973 c.36.  
**M62** 1974 c.28.  
**M63** 1920 c. 67.

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## [<sup>F116</sup>95A Directions under sections 30A, 47B and 51B

- (1) A direction under section 30A, 47B or 51B shall be in writing.
- (2) A copy of the document containing a direction under section 30A(8)(a), 47B(8)(a) or 51B(6)(a) shall be laid before Parliament after the direction is given.
- (3) A direction under section 30A, 47B or 51B, other than one to which subsection (2) above applies, shall not be given unless a draft of the document containing it has been laid before and approved by resolution of each House of Parliament.
- (4) Subsection (3) does not apply to a direction if the direction declares that the Secretary of State considers it expedient for the direction to be made without the approval mentioned in that subsection, but subsections (5) to (7) apply to the direction instead.
- (5) A copy of the document containing the direction shall be laid before Parliament after the direction is given.
- (6) If the direction is not approved by each House of Parliament before the end of the period of 40 days beginning with the date of the direction, it shall cease to have effect at the end of that period if it has not already ceased to have effect under subsection (7).
- (7) If on any day during that period of 40 days either House of Parliament, in proceedings on a motion that (or to the effect that) the direction be approved, comes to a decision rejecting the direction, the direction shall cease to have effect at the end of that day.
- (8) In calculating a period of 40 days for purposes of subsections (6) and (7), no account is to be taken of any time during which—
  - (a) Parliament is dissolved or prorogued; or
  - (b) both Houses are adjourned for more than four days.
- (9) If the document, or a draft of the document, containing a direction under section 30A, 47B or 51B would, apart from this subsection, be treated for the purposes of the Standing Orders of either House of Parliament as a hybrid instrument, it shall proceed in that House as if it were not such an instrument.
- (10) Schedule 12A (effect of application of subsection (6) or (7)) shall have effect.
- (11) The Documentary Evidence Act 1868 shall apply to a direction given by the Secretary of State under section 30A, 47B or 51B as it applies to an order made by him.]

### Textual Amendments

**F116** S. 95A inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 10(1), 12; S.I. 2004/83, art. 2

## 96 Orders and regulations.

- (1) An order under section 17(4), 25, 26, 27, 31(3) or (6), 38(6), 72(2) or 74(5) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (2) An order under section [<sup>F117</sup>4(6),] [<sup>F118</sup>31(2),] 34(4), 35(1), 55, [<sup>F119</sup>69C(12),] 75(3)(a) or (d) or 80 or Schedule 1—
  - (a) shall be made by statutory instrument; and

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(b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

[<sup>F120</sup>(2A) Paragraph (b) of subsection (2) does not apply to an order under section 31(2) if the order declares that the Secretary of State considers it to be expedient for the order to be made without the approval mentioned in that paragraph.

(2B) An order containing a declaration under subsection (2A)—

- (a) shall be laid before Parliament after being made; and
- (b) shall cease to have effect if it is not approved by a resolution of each House of Parliament before the end of the period of 28 days beginning with the date on which it is made.

(2C) Subsection (2B)(b) does not prejudice the making of a new order.

(2D) In calculating the period of 28 days mentioned in subsection (2B)(b), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.]

(3) Regulations under section 87(4) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of the House of Commons.

(4) An order under section 61(7)—

- (a) shall be made by statutory instrument; and
- (b) shall not be made unless a draft has been laid before and approved by resolution of the House of Commons.

(5) Regulations under section 87(5) shall be subject to negative resolution (within the meaning given by section 41(6) of the <sup>M64</sup>Interpretation Act Northern Ireland) 1954).

(6) Rules under section 91 or 92—

- (a) shall be made by statutory instrument; and
- (b) shall not be made unless a draft has been laid before and approved by resolution of each House of Parliament.

#### Textual Amendments

**F117** Words in s. 96(2) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 10(2), 30(1), 31, **Sch. 4 para. 11**; S.I. 2009/448, **art. 2**

**F118** Words in s. 96(2) inserted (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12), **s. 1(3)(a)**

**F119** Words in s. 96(2) inserted (1.8.2007) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 16(2), 53**, (with s. 20); S.I. 2007/2045, **art. 2(2)(3)(j)**

**F120** S. 96(2A)-(2D) inserted (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12), **s. 1(3)(b)**

#### Modifications etc. (not altering text)

**C49** Word '31(2)' in section 96(2) continued (temp. to 15.11.2003) (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12), **s. 7(1)(a)(ii)** (subject to s. 7(4))

**C50** S. 96(2A)-(2D) continued (temp. to 15.11.2003) (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12), **s. 7(1)(a)(iii)** (subject to s. 7(4))

**C51** S. 96(2A)-(2D) continued (temp. to 15.11.2003) (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12), **s. 7(1)(a)(iii)** (subject to s. 7(4))

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- C52** S. 96(2A)-(2D) continued (temp. to 15.11.2003) (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12), s. 7(1)(a)(iii) (subject to s. 7(4))
- C53** S. 96(2A)-(2D) continued (temp. to 15.11.2003) (15.5.2003) by Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003 (c. 12), s. 7(1)(a)(iii) (subject to s. 7(4))

#### Marginal Citations

- M64** 1954 c.33 (N.I.).

## 97 Financial provision.

Any expenditure of the Secretary of State in consequence of this Act shall be paid out of money provided by Parliament.

## 98 Interpretation.

(1) In this Act—

- “the appointed day” has the meaning given by section 3(1);
- “the Assembly” has the meaning given by section 4(5);
- “the Belfast Agreement” means the agreement reached at multi-party talks on Northern Ireland set out in Command Paper 3883;
- “Community law” means—
  - (a) all rights, powers, liabilities, obligations and restrictions created or arising by or under the Community Treaties; and
  - (b) all remedies and procedures provided for by or under those Treaties;
- “the Convention rights” has the same meaning as in the <sup>M65</sup>Human Rights Act 1998;
- “cross-community support” has the meaning given by section 4(5);
- “designated Nationalist” and “designated Unionist” have the meanings given by section 4(5);
- “document” includes anything in which information is recorded in any form;
- “enactment” includes any provision of this Act and any provision of, or of any instrument made under, Northern Ireland legislation;
- “excepted matter” has the meaning given by section 4(1);
- “financial year”, unless the context otherwise requires, means a year ending with 31st March;
- “functions” includes powers and duties, and “confer”, in relation to functions, includes impose;
- “international obligations” means any international obligations of the United Kingdom other than obligations to observe and implement Community law or the Convention rights;
- <sup>F121</sup> .....
- “Minister”, unless the context otherwise requires, has the meaning given by section 7(3);
- “Minister of the Crown” includes the Treasury;
- “modify”, in relation to an enactment, includes amend or repeal;
- “Northern Ireland” includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Northern Ireland;

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“Northern Ireland legislation” means—

- (a) Acts of the Parliament of Ireland;
- (b) Acts of the Parliament of Northern Ireland;
- (c) Orders in Council under section 1(3) of the <sup>M66</sup>Northern Ireland (Temporary Provisions) Act 1972;
- (d) Measures of the Northern Ireland Assembly established under section 1 of the <sup>M67</sup>Northern Ireland Assembly Act 1973;
- (e) Orders in Council under Schedule 1 to the <sup>M68</sup>Northern Ireland Act 1974;
- (f) Acts of the Assembly; and
- (g) Orders in Council under section 85;

“the Northern Ireland zone” means the sea within British fishery limits which is adjacent to Northern Ireland;

“the pledge of office” has the meaning given by section [<sup>F122</sup>16C(14)];

“political opinion” and “religious belief” shall be construed in accordance with [<sup>F123</sup>Article 2(3) and (4) of the Fair Employment and Treatment (Northern Ireland) Order 1998];

“proceedings”, in relation to the Assembly, includes proceedings of any committee;

“property” includes rights and interests of any description;

“reserved matter” has the meaning given by section 4(1);

[<sup>F124</sup>“the St Andrews Agreement” means the agreement reached on 13 October 2006 at multi-party talks on Northern Ireland held at St Andrews;]

“subordinate legislation” has the same meaning as in the <sup>M69</sup>Interpretation Act 1978 and also includes an instrument made under Northern Ireland legislation;

“transferred matter” has the meaning given by section 4(1).

- (2) For the purposes of this Act, a provision of any enactment, Bill or subordinate legislation deals with the matter, or each of the matters, which it affects otherwise than incidentally.
- (3) For the purposes of this Act, a provision of any Act or Bill which modifies a provision of—
  - (a) the <sup>M70</sup>Agricultural Wages (Regulation) (Northern Ireland) Order 1977;
  - (b) the <sup>M71</sup>Employment Rights (Northern Ireland) Order 1996; or
  - (c) the <sup>M72</sup>Industrial Tribunals (Northern Ireland) Order 1996,which is amended or applied by or under the <sup>M73</sup>National Minimum Wage Act 1998 shall not be treated as dealing with a matter falling within the subject-matter of that Act if the modification affects the national minimum wage and other employment matters in the same way.
- (4) For the purposes of this Act, a provision of an Act of the Assembly or of subordinate legislation discriminates against any person or class of persons if it treats that person or that class less favourably in any circumstances than other persons are treated in those circumstances by the law for the time being in force in Northern Ireland.
- (5) For those purposes a person discriminates against another person or a class of persons if he treats that other person or that class less favourably in any circumstances than he treats or would treat other persons in those circumstances.

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- (6) No provision of an Act of the Assembly or of subordinate legislation, and no making, confirmation or approval of a provision of subordinate legislation, shall be treated for the purposes of this Act as discriminating if the provision has the effect of safeguarding national security or protecting public safety or public order.
- (7) No other act done by any person shall be treated for the purposes of this Act as discriminating if—
- (a) the act is done for the purpose of safeguarding national security or protecting public safety or public order; and
  - (b) the doing of the act is justified by that purpose.
- (8) Her Majesty may by Order in Council determine, or make provision for determining, for such purposes of this Act as may be specified, any boundary between—
- (a) the waters or parts of the sea which are to be treated as adjacent to Northern Ireland; and
  - (b) those which are not,
- and may make different determinations or provisions for different purposes.
- (9) No recommendation shall be made to Her Majesty to make an Order in Council under subsection (8) unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

#### Textual Amendments

- F121** S. 98(1): entry for 'Judicial Committee' repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 146, 148, Sch. 9 para. 112(b), [Sch. 18 Pt. 5](#); S.I. 2009/1604, [art. 2\(a\)\(d\)\(f\)](#)
- F122** S. 98(1): words in definition of 'the pledge of office' substituted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), ss. 8, 27(4)(5), (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)), {Sch. 5 para. 5} (with s. 1(3)); S.I. 2007/1397, [art. 2](#)
- F123** Words substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), [art. 105\(1\)](#), [Sch. 3](#); S.R. 1999/81, [art. 3\(1\)](#)
- F124** S. 98(1): definition of 'the St. Andrews Agreement' inserted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), ss. 19, 27(4)(5) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)), {Sch. 7 para. 3} (with s. 1(3)); S.I. 2007/1397, [art. 2](#)

#### Modifications etc. (not altering text)

- C54** S. 98(2)(3) applied (prosp.) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 247\(9\)](#), 263(7)
- C55** S. 98(2)(3) applied (prosp.) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 247\(9\)](#), 263(7)

#### Marginal Citations

- M65** 1998 c. 42.
- M66** 1972 c.22.
- M67** 1973 c.17.
- M68** 1974 c.28.
- M69** 1978 c.30.
- M70** S.I. 1977/2151 (N.I.22).
- M71** S.I. 1996/1919 (N.I.16).
- M72** S.I. 1996/1921 (N.I.18).
- M73** 1998 c.39.



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## 99 Minor and consequential amendments.

The enactments mentioned in Schedule 13 shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.

### Commencement Information

**I14** S. 99 partly in force; s. 99 in force for specified purposes at Royal Assent see s. 101; s. 99 in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, art. 3; s. 99 in force for further specified purposes at 2.12.1999 by S.I. 1999/3209, art. 2, Sch.

## 100 Transitional provisions, savings and repeals.

- (1) The transitional provisions and savings contained in Schedule 14 shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the <sup>M74</sup>Interpretation Act 1978 (which relate to the effect of repeals).
- (2) The enactments specified in Schedule 15, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule.

### Commencement Information

**I15** S. 100 partly in force; s. 100 in force for specified purposes at Royal Assent see s. 101; s. 100(2) in force for further specified purposes at 1.3.1999 and s. 100(1) in force for further specified purposes at 1.6.1999 by S.I. 1999/340, art. 2(3)(5), Sch. Pts. 3, 4; s. 100(2) in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, art. 3; s. 100(1) in force for further specified purposes at 2.8.1999 by S.I. 1999/2204, art. 5; s. 100(2) in force for further specified purposes and s.100(1) in force at 2.12.1999 insofar as not already in force by S.I. 1999/3209, art. 2, Sch.

### Marginal Citations

**M74** 1978 c.30.

## 101 Short title and commencement.

- (1) This Act may be cited as the Northern Ireland Act 1998.
- (2) The following provisions shall come into force on the day on which this Act is passed—
  - (a) sections 3, 55, 86, 93, 96 and 98;
  - (b) paragraph 20 of Schedule 13 and section 99 so far as relating to that paragraph;
  - (c) in Schedule 15, the repeal of section 31(4) to (6) of the <sup>M75</sup>Northern Ireland Constitution Act 1973 and section 100(2) so far as relating to that repeal; and
  - (d) this section.
- (3) The remaining provisions of this Act (except Parts II and III) shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint; and different days may be appointed for different purposes.

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### Subordinate Legislation Made

- P2** S. 101(3) power partly exercised (11.2.1999): different dates appointed for specified provisions by [S.I. 1999/340](#)
- S. 101(3) power partly exercised (18.6.1999): 21.6.1999 appointed for specified provision by [S.I. 1999/1753](#)
- S. 101(3) power partly exercised (30.11.1999): 2.12.1999 appointed for specified provisions by [S.I. 1999/3209](#)
- S. 101(3) power partly exercised (26.10.1999): 28.10.1999 appointed for specified provisions by [S.I. 1999/2936](#)
- S. 101(3) power partly exercised (28.7.1999): different dates appointed for specified provisions by [S.I. 1999/2204](#)

### Marginal Citations

- M75** 1973 c.36.

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## SCHEDULES

### SCHEDULE 1

Section 1(1).

#### POLLS FOR THE PURPOSES OF SECTION 1

##### Modifications etc. (not altering text)

**C56** Sch. 1 amended (16.2.2001) by 2000 c. 41, s. 102 (with s. 156(6)); S.I. 2001/222, art. 2, Sch. 1 Pt. I

- 1 The Secretary of State may by order direct the holding of a poll for the purposes of section 1 on a date specified in the order.
- 2 Subject to paragraph 3, the Secretary of State shall exercise the power under paragraph 1 if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.
- 3 The Secretary of State shall not make an order under paragraph 1 earlier than seven years after the holding of a previous poll under this Schedule.
- 4 (1) An order under this Schedule directing the holding of a poll shall specify—
  - (a) the persons entitled to vote; and
  - (b) the question or questions to be asked.(2) An order—
  - (a) may include any other provision about the poll which the Secretary of State thinks expedient (including the creation of criminal offences); and
  - (b) may apply (with or without modification) any provision of, or made under, any enactment.

### SCHEDULE 2

Section 4(1).

#### EXCEPTED MATTERS

- 1 The Crown, including the succession to the Crown and a regency, but not—
  - (a) functions of the First Minister and deputy First Minister, the Northern Ireland Ministers or the Northern Ireland departments, or functions in relation to Northern Ireland of any Minister of the Crown;
  - (b) property belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes of a government department (other than property used for the purposes of the armed forces of the Crown or the Ministry of Defence Police);
  - (c) the foreshore or the sea bed or subsoil or their natural resources so far as vested in Her Majesty in right of the Crown.

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#### Modifications etc. (not altering text)

**C57** Sch. 2 para. 1(a) extended (1.4.2000) by 1999 c. 28, s. 35(4)(with s. 38); S.I. 2000/1066, art. 2

- 2 The Parliament of the United Kingdom; parliamentary elections, including the franchise; disqualifications for membership of that Parliament.
- 3 International relations, including relations with territories outside the United Kingdom, the European Communities (and their institutions) and other international organisations [<sup>F125</sup>and extradition] , and international development assistance and co-operation, but not—
- (a) <sup>F126</sup> .....
- [<sup>F127</sup>(aa) co-operation between the Police Service of Northern Ireland and the Garda Síochána with respect to any of the following matters—
- (i) transfers, secondments, exchanges or training of officers;
- (ii) communications (including liaison and information technology);
- (iii) joint investigations;
- (iv) disaster planning;]
- (b) the exercise of legislative powers so far as required for giving effect to any agreement or arrangement entered into—
- (i) by a Minister or junior Minister participating, by reason of [<sup>F128</sup>any provision of section 52A or 52B] , in a meeting of the North-South Ministerial Council or the British-Irish Council; or
- (ii) by, or in relation to the activities of, any body established for implementing, on the basis mentioned in paragraph 11 of Strand Two of the Belfast Agreement, policies agreed in the North-South Ministerial Council;
- (c) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under Community law.
- In this paragraph “the Human Rights Convention” means the following as they have effect for the time being in relation to the United Kingdom—
- (a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950; and
- (b) any Protocols to that Convention which have been ratified by the United Kingdom.

#### Textual Amendments

**F125** Words in Sch. 2 para. 3 inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31, Sch. 4 para. 12(a); S.I. 2009/448, art. 2

**F126** Sch. 2 para. 3(a) repealed (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1)(2), 31, Sch. 4 para. 12(b), Sch. 5; S.I. 2009/448, art. 2

**F127** Sch. 2 para. 3(aa) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31, Sch. 4 para. 12(c); S.I. 2009/448, art. 2

**F128** Words in Sch. 2 para. 3(b)(i) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 19, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 7 para. 4(2)} (with s. 1(3)); S.I. 2007/1397, art. 2

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- 4 The defence of the realm; trading with the enemy; the armed forces of the Crown but not any matter within paragraph 10 of Schedule 3; war pensions; the Ministry of Defence Police.
- 5 Control of nuclear, biological and chemical weapons and other weapons of mass destruction.
- 6 Dignities and titles of honour.
- 7 Treason but not powers of arrest or criminal procedure.
- 8 Nationality; immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens; free movement of persons within the European Economic Area; issue of travel documents.
- 9 The following matters—
  - (a) taxes or duties under any law applying to the United Kingdom as a whole;
  - (b) stamp duty levied in Northern Ireland before the appointed day; and
  - (c) taxes or duties substantially of the same character as those mentioned in sub-paragraph (a) or (b).

[<sup>F129</sup>9A Child Trust Funds.]

#### Textual Amendments

**F129** Sch. 2 para. 9A inserted (13.5.2004) by [Child Trust Funds Act 2004 \(c. 6\)](#), ss. 25, 27

- 10 The following matters—
  - (a) national insurance contributions;
  - (b) the control and management of the Northern Ireland National Insurance Fund and payments into and out of that Fund;
  - (c) reductions in and deductions from national insurance contributions;
  - (d) national insurance rebates;
  - (e) payments out of public money to money purchase pension schemes;
  - (f) contributions equivalent premiums;
  - (g) rights to return to the state pension scheme.

Sub-paragraph (a) includes the determination, payment, collection and return of national insurance contributions and matters incidental to those matters.

Sub-paragraph (b) does not include payments out of the Northern Ireland National Insurance Fund which relate to—

- (i) the benefits mentioned in section 143(1) of the <sup>M76</sup>Social Security Administration (Northern Ireland) Act 1992, or benefits substantially of the same character as those benefits; or
- (ii) administrative expenses incurred in connection with matters not falling within sub-paragraphs (a) to (g).

Sub-paragraphs (b) and (e) do not include payments out of or into the Northern Ireland National Insurance Fund under—

- (i) section 172(1)(b), (2)(a) or (7)(c) of the <sup>M77</sup>Pension Schemes (Northern Ireland) Act 1993; or

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- (ii) Article 202, 227, 234 or 252 of the <sup>M78</sup>Employment Rights (Northern Ireland) Order 1996.

In this paragraph “contributions equivalent premium” has the meaning given by section 51(2) of the Pension Schemes (Northern Ireland) Act 1993.

#### Marginal Citations

- M76** 1992 c.8.  
**M77** 1993 c.49.  
**M78** S.I. 1996/1919 (N.I.16).

[<sup>F130</sup>10A Tax credits under Part 1 of the Tax Credits Act 2002.]

#### Textual Amendments

- F130** Sch. 2 para. 10A inserted (8.7.2002) by 2002 c. 21, s. 64(2)(4)

[<sup>F131</sup>10B [<sup>F132</sup>Health in pregnancy grant,] Child benefit and guardian’s allowance.]

#### Textual Amendments

- F131** Sch. 2 para. 10B inserted (8.7.2002) by 2002 c. 21, s. 64(2)(4)  
**F132** Words in Sch. 2 para. 10B inserted (1.1.2009) by virtue of Health and Social Care Act 2008 (c. 14), ss. 137, 170; S.I. 2008/3137, art. 2

11 The [<sup>F133</sup>determination of the remuneration, superannuation and other terms and conditions of service (other than those relating to removal from office)] of judges of the [<sup>F134</sup>Court of Judicature] of Northern Ireland, holders of offices listed in column 1 of Schedule 3 to the <sup>M79</sup>Judicature (Northern Ireland) Act 1978, county court judges, recorders, resident magistrates, <sup>F135</sup>... coroners, the Chief and other Social Security Commissioners for Northern Ireland [<sup>F136</sup>and the Chief and other Child Support Commissioners for Northern Ireland] .

#### Textual Amendments

- F133** Words in Sch. 2 para. 11 substituted (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 82(a), 87(1); S.R. 2010/52, art. 2(b)  
**F134** Words in Sch. 2 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, Sch. 11 para. 33(2); S.I. 2009/1604, art. 2(b)(d)  
**F135** Words in Sch. 2 para. 11 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 13; S.R. 2010/52, art. 2(e)  
**F136** Words in Sch. 2 para. 11 substituted (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 82(b), 87(1); S.R. 2010/52, art. 2(b)

#### Marginal Citations

- M79** 1978 c.23.

[<sup>F137</sup>11A The Supreme Court.]

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#### Textual Amendments

**F137** Sch. 2 para. 11A inserted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 58(2), 148; S.I. 2009/1604, art. 2(b)

12 Elections, including the franchise, in respect of the Northern Ireland Assembly, the European Parliament and district councils.

[<sup>F138</sup>13 The subject-matter of the Political Parties, Elections and Referendums Act 2000 with the exception of Part IX (political donations etc. by companies).

This paragraph does not include the funding of political parties for the purpose of assisting members of the Northern Ireland Assembly connected with such parties to perform their Assembly duties.]

#### Textual Amendments

**F138** Sch. 2 para. 13 substituted (16.2.2001) by 2000 c. 41, s. 158, Sch. 21 para. 14(3) (with s. 156(6)); S.I. 2001/222, art. 2, Sch. 1 Pt. I

14 Coinage, legal tender and bank notes.

15 The National Savings Bank.

16 The subject-matter of the <sup>M80</sup>Protection of Trading Interests Act 1980.

#### Marginal Citations

**M80** 1980 c.11.

17 National security (including the Security Service, the Secret Intelligence Service and the Government Communications Headquarters); special powers and other provisions for dealing with terrorism or subversion; the subject-matter of—

- (a) the Official Secrets Acts <sup>M81</sup>1911 and <sup>M82</sup>1920;
- (b) [<sup>F139</sup>Chapter I of Part I of the Regulation of Investigatory Powers Act 2000], except so far as relating to the prevention or detection of serious crime (within the meaning of that Act); and
- (c) the <sup>M83</sup>Official Secrets Act 1989, except so far as relating to any information, document or other article protected against disclosure by section 4(2) (crime) and not by any other provision of sections 1 to 4.

#### Textual Amendments

**F139** Words in Sch. 2 para. 17(b) substituted (2.10.2000) by 2000 c. 23, s. 82, Sch. 4 para. 9 (with s. 82(3)); S.I. 2000/2543, art. 3

#### Marginal Citations

**M81** 1911 c.28.

**M82** 1920 c.75.

**M83** 1989 c.6.

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- 18 Nuclear energy and nuclear installations, including nuclear safety, security and safeguards, and liability for nuclear occurrences, but not the subject-matter of—
- (a) section 3(5) to (7) of the <sup>M84</sup>Environmental Protection Act 1990 (emission limits); or
  - (b) the <sup>M85</sup>Radioactive Substances Act 1993.

**Marginal Citations**

**M84** 1990 c.43.  
**M85** 1993 c.12.

- 19 Regulation of sea fishing outside the Northern Ireland zone (except in relation to Northern Ireland fishing boats).

In this paragraph “Northern Ireland fishing boat” means a fishing vessel which is registered in the register maintained under section 8 of the <sup>M86</sup>Merchant Shipping Act 1995 and whose entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging.

**Marginal Citations**

**M86** 1995 c.21.

- 20 Regulation of activities in outer space.
- [<sup>F140</sup>20A Regulation of activities in Antarctica (which for these purposes has the meaning given by section 1 of the Antarctic Act 1994).]

**Textual Amendments**

**F140** Sch. 2 para. 20A inserted (retrospectively) by Antarctic Act 2013 (c. 15), s. 17

- 21 Any matter with which a provision of the <sup>M87</sup>Northern Ireland Constitution Act 1973 solely or mainly deals.

**Marginal Citations**

**M87** 1973 c.36.

- 22 Any matter with which a provision of this Act falling within the following subparagraphs solely or mainly deals—
- (a) Parts I and II;
  - (b) Part III except sections 19, 20, 22, 23(2) to (4) [<sup>F141</sup>, 28, 28A, 28B, 28D and 28E] ;
  - (c) Part IV except sections 40, 43, 44(8) and 50 and Schedule 5;
  - (d) in Part V, sections [<sup>F142</sup>52A to 52C] and 54;
  - (e) Part VI except sections 57(1) and 67;
  - (f) Part VII except sections 73, 74(1) to (4), 75 and 77 and Schedules 8 and 9;
  - (g) in Part VIII, sections 79 to 83 and Schedule 10.



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This paragraph does not apply to—

- (i) any matter in respect of which it is stated by this Act that provision may be made by Act of the Assembly;
- (ii) any matter to which a description specified in this Schedule or Schedule 3 is stated not to apply; or
- (iii) any matter falling within a description specified in Schedule 3.

#### Textual Amendments

**F141** Words in [Sch. 2 para. 22\(b\)](#) substituted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), ss. 19, 27(4)(5) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)), {[Sch. 7 para. 4\(3\)\(a\)](#)} (with s. 1(3)); S.I. 2007/1397, [art. 2](#)

**F142** Words in [Sch. 2 para. 22\(d\)](#) substituted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), ss. 19, 27(4)(5) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)), {[Sch. 7 para. 4\(3\)\(b\)](#)} (with s. 1(3)); S.I. 2007/1397, [art. 2](#)

#### Modifications etc. (not altering text)

**C58** [Sch. 2 para. 22](#) modified (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 1, 5, [Sch. 1 para. 2](#)

## SCHEDULE 3

Section 4(1).

### RESERVED MATTERS

- 1 The conferral of functions in relation to Northern Ireland on any Minister of the Crown.
  - 2 Property belonging to Her Majesty in right of the Crown or belonging to a department of the Government of the United Kingdom or held in trust for Her Majesty for the purposes of such a department (other than property used for the purposes of the armed forces of the Crown or the Ministry of Defence Police).
  - 3 Navigation, including merchant shipping, but not harbours or inland waters.
  - 4 Civil aviation but not aerodromes.
  - 5 The foreshore and the sea bed and subsoil and their natural resources (except so far as affecting harbours); submarine pipe-lines; submarine cables, including any land line used solely for the purpose of connecting one submarine cable with another.
  - 6 Domicile.
- [<sup>F1437</sup> The subject-matter of the Postal Services Act 2000.  
This paragraph does not include financial assistance for the provision of services (other than postal services and services relating to postal or money orders) to be provided from public post offices.  
In this paragraph “postal services” and “public post offices” have the same meanings as in the Postal Services Act 2000.]

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#### Textual Amendments

**F143** Sch. 3 para. 7 substituted (26.3.2001 subject to transitional provision in arts. 3-42 of the commencing S.I.) by 2000 c. 26, s. 127(4), **Sch. 8, Pt. II para. 26**; S.I. 2001/1148, art. 2, **Sch.**

8 Disqualification for membership of the Assembly; privileges, powers and immunities of the Assembly, its members and committees greater than those conferred by section 50.

9 The following matters—

- (a) the criminal law;
- (b) the creation of offences and penalties;
- (c) the prevention and detection of crime and powers of arrest and detention in connection with crime or criminal proceedings;
- (d) prosecutions;
- (e) the treatment of offenders (including children and young persons, and mental health patients, involved in crime);
- (f) <sup>F144</sup> .....
- (g) compensation out of public funds for victims of crime.

[<sup>F145</sup>(h) local community safety partnerships.]

Sub-paragraphs (a) to (c) do not include any matter within paragraph 17 of Schedule 2.

Sub-paragraph (e) includes, in particular, prisons and other institutions for the treatment or detention of persons mentioned in that sub-paragraph.

#### Textual Amendments

**F144** Sch. 3 para. 9(f) omitted (11.3.2009) and repealed (prosp.) by virtue of Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1)(2), 31, **Sch. 4 para. 13(2)**, **Sch. 5**; S.I. 2009/448, art. 2

**F145** Sch. 3 para. 9(h) inserted (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), ss. **83(a)**, 87(1); S.R. 2010/52, art. 2(c)

[<sup>F146</sup>9A The Chief Inspector of Criminal Justice in Northern Ireland.]

#### Textual Amendments

**F146** Sch. 3 para. 9A inserted (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), ss. **83(b)**, 87(1); S.R. 2010/52, art. 2(c)

10 The maintenance of public order, including the conferring of powers, authorities, privileges or immunities for that purpose on constables, members of the armed forces of the Crown and other persons (other than the Ministry of Defence Police), but not any matter within paragraph 17 of Schedule 2; the Parades Commission for Northern Ireland.

11 The establishment, organisation and control of the [<sup>F147</sup>Police Service of Northern Ireland] and of any other police force (other than the Ministry of Defence Police); the [<sup>F147</sup>Northern Ireland Policing Board]; traffic wardens.

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#### Textual Amendments

**F147** Words in Sch. 3 para. 11 substituted (4.11.2001) by 2000 c. 32, s. 78(1), **Sch. 6 para. 24(4)**; S.R. 2001/396, **art. 2 Sch.**

- [<sup>F148</sup>11A Co-operation between the Police Service of Northern Ireland and the Garda Síochána with respect to any of the following matters—
- (a) transfers, secondments, exchanges or training of officers;
  - (b) communications (including liaison and information technology);
  - (c) joint investigations;
  - (d) disaster planning.]

#### Textual Amendments

**F148** Sch. 3 para. 11A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31, **Sch. 4 para. 13(3)**; S.I. 2009/448, **art. 2**

- 12 Firearms and explosives.
- 13 Civil defence.
- 14 The subject-matter of [<sup>F149</sup>Part 2 of the Civil Contingencies Act 2004] .

#### Textual Amendments

**F149** Words in Sch. 3 para. 14 substituted (10.12.2004) by Civil Contingencies Act 2004 (c. 36), ss. 32, 34, **Sch. 2 para. 13**; S.I. 2004/3281, **art. 2(2)**

- [<sup>F150</sup>14A The following matters—
- (a) rights of appeal to the Supreme Court;
  - (b) legal aid for appeals to the Supreme Court.]

#### Textual Amendments

**F150** Sch. 3 para. 14A inserted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 58(3), 148; S.I. 2009/1604, **art. 2(b)**

- 15 All matters, other than those specified in paragraph 11 of Schedule 2, relating to the [<sup>F151</sup>Court of Judicature] of Northern Ireland, county courts, courts of summary jurisdiction (including magistrates' courts and juvenile courts) and coroners, including procedure, evidence, appeals, juries, costs, legal aid and the registration, execution and enforcement of judgments and orders but not—
- (a) bankruptcy, insolvency, the winding up of corporate and unincorporated bodies or the making of arrangements or compositions with creditors;
  - (b) the regulation of the profession of solicitors.

#### Textual Amendments

**F151** Words in Sch. 3 para. 15 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 33(2)**; S.I. 2009/1604, **art. 2(b)(d)**

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[<sup>F152</sup>15A The Northern Ireland Law Commission.]

#### Textual Amendments

**F152** Sch. 3 para. 15A inserted (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), ss. 83(c), 87(1); S.R. 2010/52, art. 2(c)

- 16 The functions and procedures of the Civil Service Commissioners for Northern Ireland.
- 17 All matters (including procedure and appeals) relating to—
- (a) the Chief and other Social Security Commissioners for Northern Ireland; or
  - (b) the Chief and other Child Support Commissioners for Northern Ireland,
- but not any matter within paragraph 11 of Schedule 2.
- 18 The subject-matter of sections 149 to 151 of and Schedules 5 and 5A to the <sup>M88</sup>Social Security Administration (Northern Ireland) Act 1992 (Social Security Advisory Committee and Industrial Injuries Advisory Council).

#### Marginal Citations

**M88** 1992 c.8.

- 19 The subject-matter of the Vaccine Damage Payment Scheme.
- 20 Import and export controls and trade with any place outside the United Kingdom but not—
- (a) the furtherance of the trade of Northern Ireland or the protection of traders in Northern Ireland against fraud;
  - (b) services in connection with, or the regulation of, the quality, insurance, transport, marketing or identification of agricultural or food products, including livestock;
  - (c) the prevention of disease or the control of weeds and pests;
  - (d) aerodromes and harbours;
  - (e) any matter within paragraph 4 of Schedule 2.
- 21 The subject-matter of the <sup>M89</sup>National Minimum Wage Act 1998.

#### Marginal Citations

**M89** 1998 c.39.

- 22 The subject-matter of the following provisions of the <sup>M90</sup>Pension Schemes Act 1993—
- (a) section 6(1), (2)(a)(i), (iii) and (iv) and (b), (3), (4) and (8) (registration of occupational and personal pension schemes);
  - (b) section 145 (Pensions Ombudsman).

#### Marginal Citations

**M90** 1993 c.48.

*Status: Point in time view as at 01/03/2010. This version of this Act contains provisions that are prospective.*

*Changes to legislation: Northern Ireland Act 1998 is up to date with all changes known to be in force on or before 21 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- 23 The following matters—
- (a) financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance;
  - (b) financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

This paragraph does not include the subject-matter of—

- (a) the <sup>M91</sup>Industrial and Provident Societies Act (Northern Ireland) 1969;
- (b) the <sup>M92</sup>Credit Unions (Northern Ireland) Order 1985;
- (c) the <sup>M93</sup>Companies (Northern Ireland) Order 1986;
- (d) the <sup>M94</sup>Insolvency (Northern Ireland) Order 1989;
- (e) the <sup>M95</sup>Companies (Northern Ireland) Order 1990;
- (f) the <sup>M96</sup>Companies (No.2) (Northern Ireland) Order 1990;
- (g) the <sup>M97</sup>Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations (Northern Ireland) 1997.

#### Marginal Citations

**M91** 1969 c.4 (N.I.).

**M92** S.I. 1985/1205 (N.I.12).

**M93** S.I. 1986/1032 (N.I.6).

**M94** S.I. 1989/2405 (N.I.19).

**M95** S.I. 1990/593 (N.I.5).

**M96** S.I. 1990/504 (N.I.10).

**M97** S.R.&O. 1997/251.

- 24 The subject-matter of—
- (a) the <sup>M98</sup>Building Societies Act 1986;
  - (b) the <sup>M99</sup>Friendly Societies Act 1992.

#### Marginal Citations

**M98** 1986 c.53.

**M99** 1992 c.40.

- 25 The subject-matter of the Money Laundering Regulations [<sup>F153</sup>2007], but in relation to any type of business.

#### Textual Amendments

**F153** Word in Sch. 3 para. 25 substituted (15.12.2007) by [The Money Laundering Regulations 2007 \(S.I. 2007/2157\)](#), reg. 51, [Sch. 6 para. 2](#)

- [<sup>F154</sup>25A The subject-matter of the Transfer of Funds (Information on the Payer) Regulations 2007, but in relation to any type of business.]

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#### Textual Amendments

**F154** Sch. 3 para. 25A inserted (15.12.2007) by [The Transfer of Funds \(Information on the Payer\) Regulations 2007 \(S.I. 2007/3298\)](#), reg. 19, **Sch. 3 para. 1**

- 26 Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.
- 27 Intellectual property but not the subject-matter of Parts I and II of the <sup>M100</sup>Plant Varieties Act 1997 (plant varieties and the Plant Varieties and Seeds Tribunal).

#### Marginal Citations

**M100** 1997 c.66.

- 28 Units of measurement and United Kingdom primary standards.
- 29 Telecommunications; wireless telegraphy; the provision of programme services (within the meaning of the <sup>M101</sup>Broadcasting Act 1990); internet services; electronic encryption; the subject matter of Part II of the <sup>M102</sup>Wireless Telegraphy Act 1949 (electromagnetic disturbance).

#### Marginal Citations

**M101** 1990 c.42.

**M102** 1949 c.54.

- 30 The National Lottery (except in so far as any matter within Schedule 2 is concerned).
- 31 Xenotransplantation.
- 32 Surrogacy arrangements, within the meaning of the <sup>M103</sup>Surrogacy Arrangements Act 1985, including the subject-matter of that Act.

#### Marginal Citations

**M103** 1985 c.49.

- 33 The subject-matter of the <sup>M104</sup>Human Fertilisation and Embryology Act 1990.

#### Marginal Citations

**M104** 1990 c.37.

- 34 Human genetics.
- 35 Research Councils within the meaning of the <sup>M105</sup>Science and Technology Act 1965.

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#### Marginal Citations

M105 1965 c.4.

[<sup>F155</sup>35A The Arts and Humanities Research Council (as defined by section 1 of the Higher Education Act 2004).]

#### Textual Amendments

F155 Sch. 3 para. 35A inserted (16.12.2004) by Higher Education Act 2004 (c. 8), ss. 7, 52 (with ss. 8, 9); S.I. 2004/3255, art. 2

36 Areas in which industry may qualify for assistance under Part III of the <sup>M106</sup>Industrial Development Act 1982.

#### Marginal Citations

M106 1982 c.52.

37 Consumer safety in relation to goods.

38 Technical standards and requirements in relation to products in pursuance of an obligation under Community law but not standards and requirements in relation to food, agricultural or horticultural produce, fish or fish products, seeds, animal feeding stuffs, fertilisers or pesticides.

39 The subject-matter of section 3(5) to (7) of the <sup>M107</sup>Environmental Protection Act 1990 (emission limits); the environmental protection technology scheme for research and development in the United Kingdom.

#### Marginal Citations

M107 1990 c.43.

40 The subject-matter of—

- (a) the <sup>M108</sup>Data Protection Act 1984;
- (b) the <sup>M109</sup>Data Protection Act 1998; and
- (c) Council Directive 95/46/EC (protection of individuals with regard to the processing of personal data and free movement of such data).

#### Marginal Citations

M108 1984 c.35.

M109 1998 c.35.

41 Oaths and declarations (including all undertakings and affirmations, by whatever name) other than those within section 77(3).

42 Any matter with which a provision of this Act falling within the following subparagraphs solely or mainly deals—

- (a) in Part III, sections 19, 20 [<sup>F156</sup>, 28, 28A and 28B] ;

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- (b) in Part VII, sections 73, 74(3) and (4), 75 and 77(1), (2) and (4) to (8) and Schedules 8 and 9;
- (c) in Part VIII, sections 90 to 93 and Schedule 11.

This paragraph does not apply to—

- (i) any matter in respect of which it is stated by this Act that provision may be made by Act of the Assembly; or
- (ii) any matter to which a description specified in this Schedule or Schedule 2 is stated not to apply.

#### Textual Amendments

**F156** Words in Sch. 3 para. 42(a) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 19, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 7 para. 5} (with s. 1(3)); S.I. 2007/1397, art. 2

## SCHEDULE 4

Section 16(10).

### ANNEX A TO STRAND ONE OF BELFAST AGREEMENT

#### PLEDGE OF OFFICE

To pledge:

- (a) to discharge in good faith all the duties of office;
- (b) commitment to non-violence and exclusively peaceful and democratic means;
- (c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;
- [<sup>F157</sup>(ca) to promote the interests of the whole community represented in the Northern Ireland Assembly towards the goal of a shared future;
- (cb) to participate fully in the Executive Committee, the North-South Ministerial Council and the British-Irish Council;
- (cc) to observe the joint nature of the offices of First Minister and deputy First Minister;
- (cd) to uphold the rule of law based as it is on the fundamental principles of fairness, impartiality and democratic accountability, including support for policing and the courts as set out in paragraph 6 of the St Andrews Agreement;]
- (d) to participate with colleagues in the preparation of a programme for government;
- (e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;
- (f) to support, and act in accordance with, all decisions of the Executive Committee and Assembly;
- (g) to comply with the Ministerial Code of Conduct.

[<sup>F158</sup>Paragraph 6 of the St Andrews Agreement says: We believe that the essential elements of support for law and order include endorsing fully the Police Service of Northern Ireland and the criminal justice system, actively encouraging everyone in the community to co-operate fully with the PSNI in tackling crime in all areas and actively supporting all the policing and criminal justice institutions, including the Policing Board.]



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#### Textual Amendments

- F157** Sch. 4 pledge of office: (ca)-(cd) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(1), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F158** Sch. 4 pledge of office: words inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(2), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

#### Textual Amendments

- F157** Sch. 4 pledge of office: (ca)-(cd) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(1), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F158** Sch. 4 pledge of office: words inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(2), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

## CODE OF CONDUCT

Ministers must at all times:

observe the highest standards of propriety and regularity involving impartiality, integrity and objectivity in relationship to the stewardship of public funds;

be accountable to users of services, the community and, through the Assembly, for the activities within their responsibilities, their stewardship of public funds and the extent to which key performance targets and objectives have been met;

ensure all reasonable requests for information from the Assembly, users of services and individual citizens are complied with; and that Departments and their staff conduct their dealings with the public in an open and responsible way;

follow the seven principles of public life set out by the Committee on Standards in Public Life;

comply with this code and with rules relating to the use of public funds;

operate in a way conducive to promoting good community relations and equality of treatment;

not use information gained in the course of their service for personal gain; nor seek to use the opportunity of public service to promote their private interests;

ensure they comply with any rules on the acceptance of gifts and hospitality that might be offered;

declare any personal or business interests which may conflict with their responsibilities. The Assembly will retain a Register of Interests. Individuals must ensure that any direct or indirect pecuniary interests which members of the public might reasonably think could influence their judgement are listed in the Register of Interests.

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[<sup>F159</sup>SCHEDULE 4A

Section 21A

## DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

**Textual Amendments**

**F159** Sch. 4A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 17, 31, **Sch. 2** (as amended (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 9, 27, Sch. 5 paras. 8-14, Sch. 6 (with s. 1(3)); S.I. 2007/1397, art. 2 (which amending Act was itself amended (27.3.2007) by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) and as amended (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44, 53, Sch. 5 paras. 2, 3; S.I. 2009/446, art. 3); S.I. 2009/448, **art. 2**

**PART 1**

DEPARTMENT IN THE CHARGE OF MINISTER APPROVED BY  
RESOLUTION OF ASSEMBLY [<sup>F160</sup>BY VIRTUE OF SECTION 21A(3)]

**Textual Amendments**

**F160** Words in Sch. 4 Pt. 1 heading inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 4(2)**

*Introduction*

- 1 (1) This Part of this Schedule has effect in relation to a Northern Ireland department—
- (a) the functions of which consist wholly or mainly of devolved policing and justice functions; and
  - (b) in relation to which an Act of the Assembly provides, by virtue of section 21A(3), for it to be in the charge of a Northern Ireland Minister (the “relevant Minister”) appointed by virtue of a nomination—
    - (i) made by the First Minister and the deputy First Minister acting jointly; and
    - (ii) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.
- (2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

*Modification of section 16A*

- 1A Section 16A(3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted—
- (aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 1 of Schedule 4A) shall be filled by applying paragraph 3(3) to (6) of that Schedule; and

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- (b) once that office has been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

*Section 18 not to apply to relevant Minister*

- 2 (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—
  - (a) the relevant Minister; or
  - (b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),and paragraph 3 shall apply instead.
- (2) But the references to Ministerial offices in—
  - (a) subsection (1)(c) and (d) of section 18; and
  - (b) subsection (5) of that section (in the definition of M),shall be taken to include the relevant Ministerial office.

*Provisions relating to relevant Minister*

- 3 (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—
  - (a) the relevant Minister shall (if holding office at the time) cease to hold office; and
  - (b) the relevant Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (2) The relevant Ministerial office shall be filled by applying sub-paragraphs (3) to (6) before section 18(2) to (6) is applied in relation to the other Ministerial offices.
- (3) The First Minister and the deputy First Minister acting jointly shall nominate a member of the Assembly to hold the relevant Ministerial office.
- (3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.
- (4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with the support of—
  - (a) a majority of the members voting on the motion for the resolution;
  - (b) a majority of the designated Nationalists voting; and
  - (c) a majority of the designated Unionists voting.
- (5) If—
  - (a) the nomination does not take effect within a period specified in standing orders; or
  - (b) the nominated person does not take up the office for which he has been nominated within that period,a further nomination of a member of the Assembly shall be made under sub-paragraph (3).
- (6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial office is filled.
- (7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold the relevant Ministerial office.

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- (8) The relevant Minister shall not take up office until he has affirmed the terms of the pledge of office.
- (9) The relevant Minister shall cease to hold office if—
- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
  - (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or
  - (c) he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or
  - (d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.
- (10) If the relevant Minister ceases to hold office at any time, otherwise than by virtue of sub-paragraph (1), the relevant Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (10A) If, as a result of the relevant Minister (“the former Minister”) ceasing to hold office and the relevant Ministerial office being filled by virtue of sub-paragraph (10),—
- (a) the total number of Ministerial offices held by members of a political party increases; or
  - (b) the total number of Ministerial offices held by members of a political party decreases,
- all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (10B) But sub-paragraph (10A) shall not apply if—
- (a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and
  - (b) before the relevant Ministerial office was filled, either of the conditions in sub-paragraph (10C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer.
- (10C) The conditions are that—
- (a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for the relevant Ministerial office but consent to his nomination was not given in accordance with sub-paragraph (3A); or
  - (b) the member was nominated under sub-paragraph (3) for the relevant Ministerial office and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.
- (11) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
  - (b) the party's period of exclusion under that provision has not come to an end,
- no member of that party may be nominated under sub-paragraph (3).
- (12) Where—

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- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
  - (b) the party's period of exclusion under that provision has not come to an end, no member of that party may be nominated under sub-paragraph (3).
- (13) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.
- (14) In this paragraph “nominating officer” has the same meaning as in section 18.

## [<sup>F161</sup>PART 1A

DEPARTMENT IN THE CHARGE OF MINISTER APPROVED BY  
RESOLUTION OF THE ASSEMBLY BY VIRTUE OF SECTION 21A(3A)

### Textual Amendments

**F161** Sch. 4A Pt. 1A inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, Sch. 1 para. 4(3)

### Introduction

- 3A (1) This Part of this Schedule has effect in relation to a Northern Ireland department—
- (a) the functions of which consist wholly or mainly of devolved policing and justice functions, and
  - (b) in relation to which an Act of the Assembly provides, by virtue of section 21A(3A), for it to be in the charge of a Northern Ireland Minister (the “relevant Minister”) appointed by virtue of a nomination—
    - (i) made by one or more members of the Assembly, and
    - (ii) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.
- (2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

### Modification of section 16A

- 3B (1) Section 16A(3) shall have effect with the following modifications.
- (2) It shall have effect as if in paragraph (b) after “Ministers” there were inserted (other than the relevant Ministerial office (within the meaning of Part 1A of Schedule 4A)).
  - (3) It shall have effect as if after paragraph (b) there were inserted; and
    - (c) once the offices to be filled under paragraphs (a) and (b) have been filled, the relevant Ministerial office (within the meaning of Part 1A of Schedule 4A) shall be filled by applying paragraph 3D(4) to (8) of that Schedule

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*Section 18 not to apply to relevant Minister*

- 3C Section 18 (Northern Ireland Ministers) shall not apply in relation to—
- (a) the relevant Minister, or
  - (b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),
- and paragraph 3D shall apply instead.

*Provisions relating to relevant Minister*

- 3D (1) Where any of the following conditions is satisfied—
- (a) the relevant Minister shall (if holding office at the time) cease to hold office, and
  - (b) the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) within a period specified in standing orders.
- (2) The conditions are—
- (a) a determination under section 17(1) takes effect;
  - (b) a resolution which causes the relevant Ministerial office to become vacant is passed under section 30(2);
  - (c) a direction which causes the relevant Ministerial office to become vacant is given under section 30A(5);
  - (d) a period of exclusion under section 30(2) or 30A(5) comes to an end (otherwise than by virtue of section 95A(6) or (7));
  - (e) such other circumstances obtain as may be specified in standing orders for the purposes of section 18(1)(e) but only so far as standing orders provide for those circumstances to be applicable for the purposes of this sub-paragraph.
- (3) If relevant, the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) after section 18(2) to (6) is applied in relation to the other Ministerial offices.
- (4) One or more members of the Assembly may nominate another member of the Assembly to hold the relevant Ministerial office.
- (5) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with the support of—
- (a) a majority of the members voting on the motion for the resolution,
  - (b) a majority of the designated Nationalists voting, and
  - (c) a majority of the designated Unionists voting.
- (6) Once one member has been nominated, no further nominations may be made unless and until sub-paragraph (7) applies.
- (7) If—
- (a) the nomination does not take effect within a period specified in standing orders, or
  - (b) the nominated person does not take up the office for which the person has been nominated within that period,
- a further nomination of a member of the Assembly may be made under sub-paragraph (4).
- (8) Sub-paragraphs (4) to (7) shall be applied as many times as may be necessary to secure that the relevant Ministerial office is filled.

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- (9) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold the relevant Ministerial office.
- (10) The relevant Minister shall not take up office until the Minister has affirmed the terms of the pledge of office.
- (11) The relevant Minister shall cease to hold office if—
- (a) the Minister resigns by notice in writing to the First Minister and the deputy First Minister,
  - (b) the Minister ceases to be a member of the Assembly otherwise than by virtue of a dissolution, or
  - (c) the Assembly resolves that the Minister is to cease to hold office.
- (12) A resolution for the purposes of sub-paragraph (11)(c) must be passed with the support of—
- (a) a majority of the members voting on the motion for the resolution,
  - (b) a majority of the designated Nationalists voting, and
  - (c) a majority of the designated Unionists voting.
- (13) A motion for a resolution for the purposes of sub-paragraph (11)(c) shall not be moved unless—
- (a) it is supported by at least 30 members of the Assembly, or
  - (b) it is moved by the First Minister and the deputy First Minister acting jointly.
- (14) If the relevant Minister ceases to hold office at any time, otherwise than by virtue of sub-paragraph (1), the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) within a period specified in standing orders.
- (15) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence, and
  - (b) the party's period of exclusion under that provision has not come to an end,
- no member of that party may be nominated under sub-paragraph (4).
- (16) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party, and
  - (b) the party's period of exclusion under that provision has not come to an end,
- no member of that party may be nominated under sub-paragraph (4).
- (17) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.]

## PART 2

### DEPARTMENT IN THE CHARGE OF TWO MINISTERS

#### *Introduction*

- 4 (1) This Part of this Schedule has effect in relation to a Northern Ireland department—

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- (a) the functions of which consist wholly or mainly of devolved policing and justice functions; and
  - (b) in relation to which an Act of the Assembly provides, by virtue of section 21A(4), for it to be in the charge of two Northern Ireland Ministers acting jointly (the “relevant Ministers”).
- (2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

*Modification of section 16A*

- 4A Section 16A(3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted—
- (aa) once those offices have been filled, the relevant Ministerial offices (within the meaning of Part 2 of Schedule 4A) shall be filled by applying paragraph 7(3) to (6) of that Schedule; and
  - (b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

*Modifications of section 17*

- 5 (1) Section 17 (Ministerial offices) has effect subject to the following modifications.
- (2) Subsection (3) has effect subject to the provision of the Act of the Assembly referred to in paragraph 4(1)(b).
- (3) The Ministerial offices held by the relevant Ministers (the “relevant Ministerial offices”) are to count as a single Ministerial office for the purposes of subsection (4).

*Section 18 not to apply to relevant Ministers*

- 6 (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—
- (a) the relevant Ministers; or
  - (b) the relevant Ministerial offices,
- and paragraph 7 shall apply instead.
- (2) But the references to Ministerial offices in—
- (a) subsection (1)(c) and (d) of section 18; and
  - (b) subsection (5) of that section (in the definition of M),
- shall be taken to include the relevant Ministerial offices.

*Provisions relating to relevant Ministers*

- 7 (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—
- (a) the relevant Ministers shall (if holding office at the time) cease to hold office; and
  - (b) the relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (2) The relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) before section 18(2) to (6) is applied in relation to the other Ministerial offices.



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- (3) The First Minister and the deputy First Minister acting jointly shall nominate two members of the Assembly to hold the relevant Ministerial offices.
- (3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.
- (4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with the support of—
- (a) a majority of the members voting on the motion for the resolution;
  - (b) a majority of the designated Nationalists voting; and
  - (c) a majority of the designated Unionists voting.
- (5) If—
- (a) the nomination does not take effect within a period specified in standing orders; or
  - (b) the nominated persons do not take up the offices for which they have been nominated within that period,
- a further nomination of two members of the Assembly shall be made under sub-paragraph (3).
- (6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial offices are filled.
- (7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold a relevant Ministerial office.
- (8) The relevant Ministers—
- (a) shall not take up office until each of them has affirmed the terms of the pledge of office; and
  - (b) must take up office at the same time as each other.
- (9) A relevant Minister shall cease to hold office if—
- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
  - (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or
  - (c) he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or
  - (d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.
- (10) If either of the relevant Ministers ceases to hold office at any time, otherwise than by virtue of sub-paragraph (1)—
- (a) the other shall also cease to hold office at that time; and
  - (b) the relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (10A) If, as a result of the relevant Ministers (“the former Ministers”) ceasing to hold office and the relevant Ministerial offices being filled by virtue of sub-paragraph (10)(b),—
- (a) the total number of Ministerial offices held by members of a political party increases; or

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- (b) the total number of Ministerial offices held by members of a political party decreases,
- all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (10B) But sub-paragraph (10A) shall not apply if—
- (a) either of the former Ministers ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and
  - (b) before the relevant Ministerial offices were filled, either of the conditions in sub-paragraph (10C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned.
- (10C) The conditions are that—
- (a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for one of the relevant Ministerial offices but consent to his nomination was not given in accordance with sub-paragraph (3A); or
  - (b) the member was nominated under sub-paragraph (3) for one of the relevant Ministerial offices and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.
- (11) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
  - (b) the party's period of exclusion under that provision has not come to an end, no member of that party may be nominated under sub-paragraph (3).
- (12) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
  - (b) the party's period of exclusion under that provision has not come to an end, no member of that party may be nominated under sub-paragraph (3).
- (13) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.
- (14) In this paragraph “nominating officer” has the same meaning as in section 18.

### PART 3

#### DEPARTMENT WITH ROTATION BETWEEN MINISTER AND JUNIOR MINISTER

##### *Introduction*

- 8 (1) This Part of this Schedule has effect in relation to a Northern Ireland department—
- (a) the functions of which consist wholly or mainly of devolved policing and justice functions; and

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(b) in relation to which an Act of the Assembly provides, by virtue of section 21A(5)—

- (i) for it to be in the charge of a Northern Ireland Minister (the “relevant Minister”) who is supported by a junior Minister (the “relevant junior Minister”); and
- (ii) for the persons holding those offices to rotate at intervals determined by or under the Act.<sup>29</sup>

(2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

#### *Modification of section 16A*

8A Section 16A(3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted—

- (aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 3 of Schedule 4A) and the relevant junior Ministerial office (within that meaning) shall be filled by applying paragraph 11(3) to (6) of that Schedule; and
- (b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

#### *Section 18 not to apply to relevant Minister*

9 (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—  
(a) the relevant Minister; or  
(b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),

and paragraph 11 shall apply instead.

(2) But the references to Ministerial offices in—  
(a) subsection (1)(c) and (d) of section 18; and  
(b) subsection (5) of that section (in the definition of M),  
shall be taken to include the relevant Ministerial office.

(3) And the junior Ministerial office held by the relevant junior Minister (the “relevant junior Ministerial office”) shall be taken to be a Ministerial office for the purposes of subsection (5) of that section.

#### *Certain provisions of section 19 not to apply to relevant junior Minister*

10 (1) The provisions of section 19 (junior Ministers) specified in sub-paragraph (2) shall not apply in relation to—  
(a) the relevant junior Minister; or  
(b) the relevant junior Ministerial office,  
and paragraph 11 shall apply instead.

(2) Those provisions are—  
(a) so much of subsection (1)(a) as relates to the procedures for the appointment of persons as junior Ministers;

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- (b) subsection (2) (so that, in particular, the relevant junior Ministerial office shall not count for the purposes of any formulae or other rules mentioned in that subsection);
- (c) subsection (3); and
- (d) subsection (5).

*Provisions relating to relevant Minister and relevant junior Minister*

- 11 (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—
- (a) the relevant Minister and the relevant junior Minister shall (if holding office at the time) cease to hold office; and
  - (b) the relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (2) The relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6)—
- (a) before section 18(2) to (6) is applied in relation to the other Ministerial offices; and
  - (b) before the procedures specified in any determination under section 19 are applied in relation to the other junior Ministerial offices.
- (3) The First Minister and the deputy First Minister acting jointly shall nominate—
- (a) a member of the Assembly to hold the relevant Ministerial office; and
  - (b) a member of the Assembly to hold the relevant junior Ministerial office.
- (3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.
- (4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with the support of—
- (a) a majority of the members voting on the motion for the resolution;
  - (b) a majority of the designated Nationalists voting; and
  - (c) a majority of the designated Unionists voting.
- (5) If—
- (a) the nomination does not take effect within a period specified in standing orders; or
  - (b) the nominated persons do not take up the offices for which they have been nominated within that period,
- a further nomination of two members of the Assembly shall be made under sub-paragraph (3).
- (6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial office and the relevant junior Ministerial office are filled.
- (7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold—
- (a) the relevant Ministerial office; or
  - (b) the relevant junior Ministerial office.

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- (8) The relevant Minister and the relevant junior Minister—
- (a) shall not take up office until each of them has affirmed the terms of the pledge of office; and
  - (b) must take up office at the same time as each other.
- (9) The relevant Minister or the relevant junior Minister shall cease to hold office if—
- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
  - (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or
  - (c) he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or
  - (d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.
- (10) Sub-paragraph (11) applies if the relevant Minister or the relevant junior Minister ceases to hold office at any time, otherwise than—
- (a) by virtue of sub-paragraph (1); or
  - (b) by virtue of the rotation of the persons holding those offices in accordance with provision referred to in paragraph 8(1)(b)(ii).
- (11) Where this sub-paragraph applies—
- (a) the other shall also cease to hold office at that time; and
  - (b) the relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (11A) If, as a result of the relevant Minister (“the former Minister”) and the relevant junior Minister (“the former junior Minister”) ceasing to hold office and the relevant Ministerial office and the relevant junior Ministerial office being filled by virtue of sub-paragraph (11)(b),—
- (a) the total number of Ministerial offices or junior Ministerial offices held by members of a political party increases; or
  - (b) the total number of Ministerial offices or junior Ministerial offices held by members of a political party decreases,
- all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (11B) But sub-paragraph (11A) shall not apply if—
- (a) the former Minister or the former junior Minister ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9) (d); and
  - (b) before the relevant Ministerial office and the relevant junior Ministerial office were filled, either of the conditions in sub-paragraph (11C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned.
- (11C) The conditions are that—

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- (a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for the appropriate office, but consent to his nomination was not given in accordance with sub-paragraph (3A); or
  - (b) the member was nominated under sub-paragraph (3) for the appropriate office and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.
- (11D) In sub-paragraph (11C) “the appropriate office” means—
- (a) in relation to a person who was a member of the political party of the nominating officer who dismissed the former Minister, the relevant Ministerial office;
  - (b) in relation to a person who was a member of the political party of the nominating officer who dismissed the former junior Minister, the relevant junior Ministerial office.
- (12) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
  - (b) the party's period of exclusion under that provision has not come to an end, no member of that party may be nominated under sub-paragraph (3).
- (13) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
  - (b) the party's period of exclusion under that provision has not come to an end, no member of that party may be nominated under sub-paragraph (3).
- (14) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.
- (15) In this paragraph “nominating officer” has the same meaning as in section 18.

### PART 3A

#### DEPARTMENT IN THE CHARGE OF MINISTER AND DEPUTY MINISTER

##### *Introduction*

- 11A (1) This Part of this Schedule has effect in relation to a Northern Ireland department—
- (a) the functions of which consist wholly or mainly of devolved policing and justice functions; and
  - (b) in relation to which an Act of the Assembly provides, by virtue of section 21A(5A)—
    - (i) for it to be in the charge of a Northern Ireland Minister (the “relevant Minister”) elected by the Assembly; and
    - (ii) for that Minister to be supported by a deputy Minister (the “deputy Minister”) elected by the Assembly.

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- (2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

#### *Modification of section 16A*

- 11B (1) Section 16A shall have effect subject to the following modifications.
- (2) Subsection (2) shall have effect as if, at the end there were inserted “; and the deputy Minister (within the meaning of Part 3A of Schedule 4A) shall cease to hold office.”
- (3) Subsection (3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted—
- (aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 3A of Schedule 4A) and the deputy Ministerial office (within that meaning) shall be filled by applying paragraph 11E(2)(b) and (3) to (8) of that Schedule; and
  - (b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

#### *Section 18 not to apply to relevant Minister*

- 11C (1) Subject to sub-paragraphs (2) to (5), section 18 (Northern Ireland Ministers) shall not apply in relation to—
- (a) the relevant Minister; or
  - (b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),
- and paragraphs 11E to 11G shall apply instead.
- (2) The references to Ministerial offices in subsection (1)(c) and (d) of section 18 shall be taken to include the relevant Ministerial office.
- (3) In the application of section 18(5) to a political party which is entitled to two or more Ministerial offices, the reference to Ministerial offices (in the definition of M)—
- (a) at any time when the number of Ministerial offices held by members of the party (apart from the relevant Ministerial office) is nil, shall be taken not to include the relevant Ministerial office; but
  - (b) at any time when the number of Ministerial offices held by members of the party (apart from the relevant Ministerial office) is one or more, shall be taken to include the relevant Ministerial office.
- (4) In the application of section 18(5) to any other political party, that reference to Ministerial offices shall be taken to include the relevant Ministerial office.
- (5) For the purposes of this paragraph, a political party is entitled to two or more Ministerial offices if the nominating officer of the party would be entitled to nominate persons to hold two or more Ministerial offices under section 18, assuming that—
- (a) on each occasion on which a nominating officer of a political party is entitled to exercise the power conferred by section 18(2), he does so within the period mentioned in section 18(3)(a);
  - (b) the nominated person, in each case, takes up the selected Ministerial office within that period; and

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- (c) the reference in section 18(5) to Ministerial offices (in the definition of M) is taken to include the relevant Ministerial office.

*Section 19 not to apply to deputy Minister*

- 11D (1) The deputy Minister is to be treated for the purposes of this Act as if he were a junior Minister, but the provisions of section 19 (junior Ministers) shall not apply in relation to—
- (a) him; or
  - (b) the office held by him (the “deputy Ministerial office”),
- (so that, in particular, the deputy Ministerial office shall not count for the purposes of any formulae or other rules mentioned in section 19(2)); and the following provisions of this Part of this Schedule shall apply instead.
- (2) The functions exercisable by virtue of the deputy Ministerial office shall be those determined in relation to that office by the relevant Minister and the deputy Minister acting jointly.
- (3) The relevant Minister and the deputy Minister shall consult the First Minister and the deputy First Minister before making any determination under sub-paragraph (2).

*Provisions relating to relevant Minister and deputy Minister*

- 11E (1) When devolved policing and justice functions are first transferred to, or conferred on, the department mentioned in paragraph 11A, the relevant Ministerial office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.
- (2) The relevant Ministerial office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8)—
- (a) before section 18(2) to (6) is applied in relation to the other Ministerial offices; and
  - (b) before the procedures specified in any determination under section 19 are applied in relation to the junior Ministerial offices.
- (3) Any member of the Assembly may stand as a candidate for election as—
- (a) the relevant Minister; or
  - (b) the deputy Minister.
- (4) But a member of the Assembly may not stand for election to either of those offices unless—
- (a) he belongs to the largest or the second largest political designation (see paragraph 11H);
  - (b) he is nominated by another member of the Assembly; and
  - (c) if he is a member of a political party, the nominating officer of the party consents to his nomination within a period specified in standing orders.
- (5) A candidate shall not be elected to either of those offices by the Assembly without the support of—
- (a) a majority of the members voting in the election;
  - (b) a majority of the designated Nationalists voting; and
  - (c) a majority of the designated Unionists voting.



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- (6) A candidate shall not be elected to hold office as deputy Minister unless—
- (a) the relevant Ministerial office is filled; and
  - (b) the candidate and the relevant Minister belong to different political designations.
- (7) A person elected to the office of relevant Minister or deputy Minister shall not take up office until he has affirmed the terms of the pledge of office.
- (8) If a person elected to either office does not take up the office within a period specified in standing orders, his election shall be deemed to be ineffective.
- (9) The relevant Minister or the deputy Minister shall cease to hold office if—
- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
  - (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution;
  - (c) where consent to his nomination was required under sub-paragraph (4)(c), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.
- (10) If the relevant Minister or the deputy Minister ceases to hold office at any time, otherwise than by virtue of section 16A(2), the office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.
- (11) But if—
- (a) the relevant Ministerial office is filled by virtue of sub-paragraph (10); and
  - (b) the person appointed as the relevant Minister belongs to the same political designation as the deputy Minister,
- the deputy Minister shall cease to hold office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.
- (12) Standing orders may make provision with respect to the holding of elections under this paragraph.

**Modifications etc. (not altering text)**

**C59** Sch. 4A para. 11E(1) applied (with modifications) (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, Sch. 1 para. 8(8) (with Sch. 1 para. 8(9))

*Eligibility to become relevant Minister or deputy Minister*

- 11F (1) The holding of office as First Minister or deputy First Minister shall not prevent a person being elected to hold—
- (a) the relevant Ministerial office; or
  - (b) the deputy Ministerial office.
- (2) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
  - (b) the party's period of exclusion under that provision has not come to an end,

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no member of that party may be nominated under paragraph 11E(4)(b).

- (3) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
  - (b) the party's period of exclusion under that provision has not come to an end,
- no member of that party may be nominated under paragraph 11E(4)(b).
- (4) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.

*Change in number of Ministerial offices held by members of a political party*

- 11G (1) If, as a result of the relevant Minister (“the former Minister”) ceasing to hold office and the relevant Ministerial office being filled by virtue of paragraph 11E(10)—
- (a) the total number of Ministerial offices held by members of a political party increases; or
  - (b) the total number of Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.

- (2) But sub-paragraph (1) shall not apply if—
- (a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under paragraph 11E(9)(c); and
  - (b) before the relevant Ministerial office was filled, either of the conditions in sub-paragraph (3) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer.
- (3) The conditions are that—
- (a) another member of the Assembly sought to nominate the member under paragraph 11E(4)(b) for the relevant Ministerial office but consent to his nomination was not given in accordance with paragraph 11E(4)(c); or
  - (b) the member was elected to the relevant Ministerial office, but the member did not take up the office within the period specified in standing orders by virtue of paragraph 11E(8).

*Interpretation*

- 11H (1) In this Part of this Schedule “nominating officer” has the same meaning as in section 18.
- (2) For the purposes of this Part of this Schedule, a member of the Assembly is to be taken—
- (a) to belong to the political designation “Nationalist” if he is a designated Nationalist;
  - (b) to belong to the political designation “Unionist” if he is a designated Unionist;
  - (c) otherwise, to belong to the political designation “Other”;

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and the size of each of the political designations “Nationalist”, “Unionist” and “Other” is to be determined in accordance with section 16C(4) and (5).

## PART 4

### POWER TO MAKE FURTHER MODIFICATIONS

- 12 (1) Her Majesty may by Order in Council make such further modifications of any enactment (whenever passed or made) as appear to Her Majesty to be necessary or expedient—
- (a) in consequence of, or
  - (b) for giving full effect to,
- an Act of the Assembly which makes provision of the kind mentioned in section 21A(3), [F162(3A)],(4), (5) or (5A) or an Order in Council under section 21A(7C).
- (2) No recommendation shall be made to Her Majesty to make an Order under this paragraph unless a draft of it has been laid before and approved by resolution of each House of Parliament.

#### Textual Amendments

**F162** Words in [Sch. 4A para. 12\(1\)](#) inserted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 1, 5, [Sch. 1 para. 4\(4\)](#)

[<sup>F163</sup>13 Paragraphs 3(10), 3D(14), 7(10), 11(10) and (11) and 11E(10) of this Schedule shall have effect subject to paragraphs 2 and 3 of Schedule 12A (as those paragraphs are modified at any time by virtue of paragraph 12 of this Schedule).]

#### Textual Amendments

**F163** [Sch. 4A para. 13](#) inserted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 1, 5, [Sch. 1 para. 4\(5\)](#)

## SCHEDULE 5

Section 40(10).

### NORTHERN IRELAND ASSEMBLY COMMISSION

#### *Membership*

- 1 A person appointed under standing orders made under section 40(2)(b) shall hold office until another member of the Assembly is appointed in his place, unless he previously resigns or ceases to be a member of the Assembly otherwise than by virtue of a dissolution.

#### *Staff*

- 2 (1) The Commission may appoint staff.

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- (2) The persons appointed by the Commission are referred to in this Act as the staff of the Assembly.
- (3) It is for the Commission to determine the terms and conditions of appointment of the staff of the Assembly, including arrangements for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a member of the staff of the Assembly.
- (4) Accordingly, the Commission may—
  - (a) make contributions or payments towards provision for such pensions, gratuities or allowances;
  - (b) establish and administer one or more pension schemes.
- (5) The power conferred by sub-paragraph (1) includes power to make arrangements for administrative, secretarial or other assistance to be provided for the Commission by officers of the civil service of Northern Ireland or the civil service; and the reference in sub-paragraph (2) to persons appointed by the Commission shall be construed accordingly.

#### *Powers*

- 3 (1) Subject to sub-paragraph (4), the Commission may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions.
- (2) That includes, in particular—
  - (a) holding property;
  - (b) charging for goods or services;
  - (c) entering into contracts;
  - (d) investing sums not immediately required in relation to the discharge of its functions; and
  - (e) accepting gifts.
- (3) The Commission may sell goods or provide services, and may make arrangements for the sale of goods or provision of services, to the public.
- (4) The Commission may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.
- (5) The Commission may borrow money only under sub-paragraph (4) and may borrow under that sub-paragraph only with the special or general approval of the Assembly.

#### *Delegation*

- 4 The Commission may delegate any of its functions to the Presiding Officer or a member of the staff of the Assembly.

#### *Proceedings and business*

- 5 (1) The validity of any acts of the Commission shall not be affected by any vacancy among the members, or by any defect in the appointment, or qualification for membership, of any member.

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- (2) The Commission may determine its own procedure.
- (3) The Presiding Officer shall preside at meetings of the Commission, but the Commission may appoint another of its members to preside if the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act.

#### *Crown status*

- 6 (1) Her Majesty may by Order in Council provide for the Commission to be treated to any extent as a Crown body for the purposes of any enactment.
- (2) In particular, the Order may for the purposes of any enactment provide—
  - (a) for employment under the Commission to be treated as employment under the Commission as a Crown body;
  - (b) for land held, used or managed by the Commission, or operations carried out by or on behalf of the Commission, to be treated (as the case may be) as land held, used or managed, or operations carried out by or on behalf of, the Commission as a Crown body.
- (3) For the purposes of this paragraph, “Crown body” means a body which is the servant or agent of the Crown, and includes a government department.
- (4) A statutory instrument containing an Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

### SCHEDULE 6

Section 41(3).

#### STANDING ORDERS: FURTHER PROVISION

##### *Preservation of order*

- 1 (1) The standing orders shall include provision for preserving order in the proceedings of the Assembly, including provision for—
  - (a) preventing conduct which would constitute a criminal offence or contempt of court; and
  - (b) a sub judice rule.
- (2) Such provision may provide for excluding a member of the Assembly from proceedings and for withdrawing his rights and privileges as a member for the period of his exclusion.

##### *Proceedings to be in public*

- 2 (1) The standing orders shall include provision requiring the proceedings of the Assembly to be held in public, except in such circumstances as the standing orders may provide.
- (2) The standing orders may include provision as to the conditions to be complied with by any member of the public attending the proceedings, including provision for excluding from the proceedings any member of the public who does not comply with those conditions.

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### *Reporting and publishing proceedings*

- 3 The standing orders shall include provision for reporting the proceedings of the Assembly and for publishing the reports.

### *Committees*

- 4 (1) The standing orders shall include provision for ensuring that, in appointing members to committees, regard is had to the balance of parties in the Assembly.
- (2) The standing orders may include provision for excluding from the proceedings of a committee a member of the Assembly who is not a member of the committee.

### *[<sup>F164</sup>Votes in vacancy*

#### **Textual Amendments**

**F164** Sch. 6 para. 5 and preceding cross-heading inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 17, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

- 5 The standing orders may include provision enabling a right to vote in the Assembly which could have been exercised but for a vacancy in the membership of the Assembly to be exercisable in such manner as is so provided.]

## SCHEDULE 7

Section 68(4).

### THE NORTHERN IRELAND HUMAN RIGHTS COMMISSION

#### *Introductory*

- 1 In this Schedule “the Commission” means the Northern Ireland Human Rights Commission.

#### **Commencement Information**

**I16** Sch. 7 para. 1 wholly in force at 1.3.1999; Sch. 7 para. 1 not in force at Royal Assent see s. 101(3); Sch. 7 para. 1 in force for certain purposes at 15.2.1999 and for all other purposes at 1.3.1999 by S.I. 1999/340, art. 2(1), Sch. Pt. 1

#### *Commissioners’ tenure*

- 2 (1) Subject to the provisions of this Schedule, a Commissioner shall hold office in accordance with the terms of his appointment.
- (2) A Commissioner shall not be appointed—
- in the case of the Chief Commissioner, for more than five years at a time; and
  - in any other case, for more than three years at a time.

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- (3) A person may resign as a Commissioner or as Chief Commissioner by notice in writing to the Secretary of State.
- (4) The Secretary of State may dismiss a person from his office as Commissioner or Chief Commissioner if satisfied—
  - (a) that he has without reasonable excuse failed to discharge his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal;
  - (b) that he has been convicted of a criminal offence;
  - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
  - (d) that he is unable or unfit to carry out his functions.

#### Commencement Information

**I17** Sch. 7 para. 2 wholly in force at 1.3.1999; Sch. 7 para. 2 not in force at Royal Assent see s. 101(3); Sch. 7 para. 2 in force for certain purposes at 15.2.1999 and for all other purposes at 1.3.1999 by S.I. 1999/340, art. 2(1), Sch. Pt. 1

#### *Commissioners' salary etc.*

- 3 (1) The Commission shall pay to or in respect of Commissioners—
  - (a) remuneration;
  - (b) allowances and fees; and
  - (c) sums for the provision of pensions,in accordance with directions of the Secretary of State.
- (2) Where a person who by reference to any office or employment is a participant in a scheme under section 1 of the <sup>M110</sup>Superannuation Act 1972 becomes a Commissioner or the Chief Commissioner, the Minister for the Civil Service may, notwithstanding any provision made under sub-paragraph (1)(c), determine that the person's service as Commissioner or Chief Commissioner shall be treated for the purposes of the scheme as service in that office or employment.

#### Marginal Citations

**M110** 1972 c.11.

#### *Staff*

- 4 (1) The Commission may employ staff subject to the approval of the Secretary of State as to numbers and as to remuneration and other terms and conditions of employment.
- (2) Employment with the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) after "Commission for Racial Equality" insert— " Northern Ireland Human Rights Commission ".

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- (3) The Commission shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (2) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

#### *Annual report*

- 5 (1) The Commission shall, as soon as reasonably practicable after the end of each year, make a report to the Secretary of State on the performance of its functions during the year.
- (2) The Secretary of State shall lay a copy of the report before each House of Parliament.

#### *Money*

- 6 The Secretary of State may make grants to the Commission out of money provided by Parliament.
- 7 (1) The Commission shall keep proper accounts and financial records.
- (2) The Commission shall—
- (a) prepare a statement of accounts in respect of each financial year containing such information, and in such form, as the Secretary of State with the consent of the Treasury directs; and
  - (b) send a copy to the Secretary of State and to the Comptroller and Auditor General within such period after the end of the financial year as the Secretary of State directs.
- (3) The Comptroller and Auditor General shall—
- (a) examine, certify and report on the statement of accounts; and
  - (b) lay a copy of the statement of accounts and of his report before each House of Parliament.
- (4) For the purposes of this paragraph—
- (a) a financial year is a period of twelve months ending on 31st March; but
  - (b) the first financial year is the period beginning with the day on which section 68 comes into force and ending with the first 31st March which falls at least six months after that day.

#### *Procedure*

- 8 (1) In determining its own procedure the Commission may, in particular, make provision about—
- (a) the discharge of its functions by committees (which may include persons who are not Commissioners);
  - (b) a quorum for meetings of the Commission or a committee.
- (2) The validity of any proceedings of the Commission or a committee shall not be affected by—
- (a) a vacancy in the office of Chief Commissioner; or
  - (b) a defect in the appointment of a Commissioner.



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### *Disqualification*

- 9 In Part III of Schedule 1 to the <sup>M111</sup>House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— “ Northern Ireland Human Rights Commissioner ”.

#### **Marginal Citations**

**M111** 1975 c.24.

- 10 In Part III of Schedule 1 to the <sup>M112</sup>Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— “ Northern Ireland Human Rights Commissioner ”.

#### **Marginal Citations**

**M112** 1975 c.25.

### *Status*

- 11 The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and property of the Commission shall not be regarded as property of, or held on behalf of, the Crown.

## SCHEDULE 8

Section 73(5).

### THE EQUALITY COMMISSION FOR NORTHERN IRELAND

#### **Modifications etc. (not altering text)**

**C60** Sch. 8: transfer of certain functions (1.12.1999) by S.R. 1999/481, arts. 1, 4, Sch. 2 Pt. I

### *Introductory*

- 1 In this Schedule “the Commission” means the Equality Commission for Northern Ireland.

#### **Commencement Information**

**I18** Sch. 8 para. 1 wholly in force at 2.8.1999; Sch. 8 para. 1 not in force at Royal Assent see s. 101(3); Sch. 8 para. 1 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), Sch. Pt. 2; Sch. 8 para. 1 in force at 2.8.1999 by S.I. 1999/2204, art. 2

### *Commissioners’ tenure*

- 2 (1) Subject to the provisions of this Schedule, a Commissioner shall hold office in accordance with the terms of his appointment.

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- (2) A Commissioner shall not be appointed—
- (a) in the case of the Chief Commissioner, for more than five years at a time; and
  - (b) in any other case, for more than three years at a time.
- (3) A person may resign as a Commissioner, as the Chief Commissioner or as a Deputy Chief Commissioner by notice in writing to the Secretary of State.
- (4) The Secretary of State may dismiss a person from his office of Commissioner, Chief Commissioner or Deputy Chief Commissioner if satisfied—
- (a) that he has without reasonable excuse failed to discharge his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal;
  - (b) that he has been convicted of a criminal offence;
  - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
  - (d) that he is unable or unfit to carry out his functions.

#### Commencement Information

**I19** Sch. 8 para. 2 wholly in force at 2.8.1999; Sch. 8 para. 1 not in force at Royal Assent see s. 101(3); Sch. 8 para. 2 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), Sch. Pt. 2; Sch. 8 para. 2 in force at 2.8.1999 by S.I. 1999/2204, art. 2

#### *Commissioners' salary etc.*

- 3 The Department of Economic Development may with the approval of the Department of Finance and Personnel pay to or in respect of Commissioners—
- (a) remuneration;
  - (b) allowances and fees; and
  - (c) sums for the provision of pensions.

#### *<sup>F165</sup> Additional Commissioners*

#### Textual Amendments

**F165** Sch. 8 para. 3A and crossheading preceding it inserted (19.4.2000) by S.I. 2000/1110, art. 18(1)

- <sup>F166</sup>3A (1) Paragraph 2(1) and (2) shall apply to additional Commissioners as they apply to Commissioners.
- (2) The Commission may pay, or make such payments towards the provision of, such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of an additional Commissioner as the Office of the First Minister and deputy First Minister, with the consent of the Department of Finance and Personnel, may determine.
  - (3) The Commission may not alter the terms of appointment of an additional Commissioner except with his consent and the approval of the Office of the First Minister and deputy First Minister.

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- (4) An additional Commissioner may resign by notice in writing to the Commission.
- (5) The Commission may, with the approval of the Office of the First Minister and deputy First Minister, terminate the appointment of an additional Commissioner if satisfied—
  - (a) that without reasonable excuse he has failed to discharge his functions for a continuous period of three months beginning not earlier than six months before the termination;
  - (b) that he has been convicted of a criminal offence;
  - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
  - (d) that he is unable or unfit to carry out his functions.
- (6) The appointment of an additional Commissioner shall terminate at the conclusion of the investigation for which he was appointed, if not sooner.
- (7) In this paragraph “additional Commissioner” means an additional Commissioner appointed under—
  - (a) Article 57(2) of the Sex Discrimination (Northern Ireland) Order 1976;
  - (b) Article 46(2) of the Race Relations (Northern Ireland) Order 1997; or
  - (c) Article 5(4) of the Equality (Disability, etc.) (Northern Ireland) Order 2000.]

#### Textual Amendments

**F166** Sch. 8 para. 3A and Cross Heading inserted (19.4.2000) by S.I. 2000/1110, art. 18(1)

#### *Staff*

- 4 (1) The Commission may with the approval of the Department of Economic Development and the Department of Finance and Personnel as to numbers and as to remuneration and other terms and conditions of employment—
  - (a) employ such staff as the Commission considers necessary;
  - (b) employ the services of such other persons as the Commission considers expedient for any particular purpose.
- (2) The Commission may, in the case of such of its staff as may be determined by it with the approval of the Department of Economic Development and the Department of Finance and Personnel, pay such pensions, allowances or gratuities, or provide and maintain such pension schemes, as may be so determined.
- (3) Payments made or expenses incurred under this paragraph shall be defrayed out of money appropriated by Act of the Assembly.

#### *Annual report*

- 5 (1) The Commission shall, as soon as reasonably practicable after the end of [<sup>F167</sup>each financial year], make a report to the Department of Economic Development—
  - (a) on the performance of its functions during the year; and

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- (b) on any steps which, during the year, have been taken by it and other public authorities to promote such equality of opportunity as is mentioned in section 75(1).
- (2) The report shall, in particular, give details of how resources have been divided between the functions previously exercisable by each of the bodies listed in section 74(2).
- (3) The Department shall lay a copy of the report before the Assembly and send a copy of the report to the Secretary of State.
- (4) The Secretary of State shall lay a copy of the report before each House of Parliament.
- [<sup>F168</sup>(5) Sub-paragraph (5) of paragraph 7 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.]

#### Textual Amendments

**F167** Words in Sch. 8 para. 5(1) substituted (19.4.2000) by S.I. 2000/1110, art. 19(1)(2)

**F168** Sch. 8 para. 5(5) added (19.4.2000) by S.I. 2000/1110, art. 19(1)(3)

#### Money

- 6 (1) Expenditure incurred by the Commission may be defrayed as expenses of the Department of Economic Development if authorised by that Department and the Department of Finance and Personnel.
- (2) Expenditure defrayed under this paragraph shall be defrayed out of money appropriated by Act of the Assembly and an authorisation for the purposes of this paragraph may be general or specific.
- 7 (1) The Commission shall keep accounts and financial records in a form approved by the Department of Economic Development.
- (2) The Commission shall—
  - (a) prepare a statement of accounts in respect of each financial year containing such information, and in such form, as is directed by the Department of Economic Development with the consent of the Department of Finance and Personnel; and
  - (b) send a copy to the Department of Economic Development and to the Comptroller and Auditor General for Northern Ireland within such period after the end of the financial year as the Department directs.
- (3) The Comptroller and Auditor General for Northern Ireland shall—
  - (a) examine, certify and report on the statement of accounts; and
  - (b) send a copy of the statement of accounts and of his report to the Department of Economic Development.
- (4) The Department shall lay a copy of the statement of accounts and the Comptroller and Auditor General's report before the Assembly.
- (5) For the purposes of this paragraph—
  - (a) a financial year is a period of twelve months ending on 31st March; but

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- (b) the first financial year is the period beginning with the day on which section 73 comes into force and ending with the first 31st March which falls at least six months after that day.

**Modifications etc. (not altering text)**

C61 Sch. 8 para 7(3)(4) applied (20.7.1999) by S.I. 1999/1804, art. 6(4)

*Procedure*

- 8 (1) In determining its own procedure the Commission may, in particular, make provision about—
- (a) the discharge of its functions by committees (which may include persons who are not Commissioners);
  - (b) a quorum for meetings of the Commission or a committee.
- (2) The validity of any proceedings of the Commission or a committee shall not be affected by—
- (a) a vacancy in the office of Chief Commissioner or Deputy Chief Commissioner; or
  - (b) a defect in the appointment of a Commissioner.

*Disqualification*

- 9 In Part II of Schedule 1 to the <sup>M113</sup>House of Commons Disqualification Act 1975 (bodies whose members are disqualified) at the appropriate place insert— “ The Equality Commission for Northern Ireland ”.

**Marginal Citations**

M113 1975 c.24.

- 10 In Part II of Schedule 1 to the <sup>M114</sup>Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) at the appropriate place insert— “ The Equality Commission for Northern Ireland ”.

**Marginal Citations**

M114 1975 c.25.

*The Northern Ireland Commissioner for Complaints*

- 11 In Schedule 2 to the <sup>M115</sup>Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) at the appropriate place insert— “ The Equality Commission for Northern Ireland ”.

**Marginal Citations**

M115 S.I. 1996/1297 (N.I.7).

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### *Status*

- 12 The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and property of the Commission shall not be regarded as property of, or held on behalf of, the Crown.

## SCHEDULE 9

Section 75(4).

### EQUALITY: ENFORCEMENT OF DUTIES

#### *The Equality Commission*

- 1 The Equality Commission for Northern Ireland shall—
- (a) keep under review the effectiveness of the duties imposed by section 75;
  - (b) offer advice to public authorities and others in connection with those duties; and
  - (c) carry out the functions conferred on it by the following provisions of this Schedule.

#### **Commencement Information**

**I20** Sch. 9 para. 1 wholly in force at 1.1.2000; Sch. 9 para. 1 not in force at Royal Assent see s. 101(3); Sch. 9 para. 1(b) in force for specified purposes at 1.10.1999 by S.I. 1999/2204, art. 3; Sch. 9 para. 1 in force at 1.1.2000 insofar as not already in force by S.I. 1999/2204, art. 4

#### *Equality schemes*

- 2 (1) A public authority to which this sub-paragraph applies shall, before the end of the period of six months beginning with the commencement of this Schedule or, if later, the establishment of the authority, submit a scheme to the Commission.
- (2) Sub-paragraph (1) applies to any public authority except one which is notified in writing by the Commission that that sub-paragraph does not apply to it.
- 3 (1) Where it thinks appropriate, the Commission may—
- (a) request a public authority to which paragraph 2(1) does not apply to make a scheme;
  - (b) request any public authority to make a revised scheme.
- (2) A public authority shall respond to a request under this paragraph by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.
- 4 (1) A scheme shall show how the public authority proposes to fulfil the duties imposed by section 75 in relation to the relevant functions.
- (2) A scheme shall state, in particular, the authority's arrangements—
- (a) for assessing its compliance with the duties under section 75 and for consulting on matters to which a duty under that section is likely to be relevant (including details of the persons to be consulted);

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- (b) for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity;
  - (c) for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;
  - (d) for publishing the results of such assessments as are mentioned in paragraph (b) and such monitoring as is mentioned in paragraph (c);
  - (e) for training staff;
  - (f) for ensuring, and assessing, public access to information and to services provided by the authority.
- (3) A scheme shall—
- (a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Secretary of State;
  - (b) specify a timetable for measures proposed in the scheme; and
  - (c) include details of how it will be published.
- (4) In this paragraph—
- “equality of opportunity” means such equality of opportunity as is mentioned in section 75(1);
- “the relevant functions” means the functions of the public authority or, in the case of a scheme submitted in response to a request which specifies particular functions of the public authority, those functions.
- 5 Before submitting a scheme a public authority shall consult, in accordance with any directions given by the Commission—
- (a) representatives of persons likely to be affected by the scheme; and
  - (b) such other persons as may be specified in the directions.
- 6 (1) On receipt of a scheme the Commission shall—
- (a) approve it; or
  - (b) refer it to the Secretary of State.
- (2) Where the Commission refers a scheme to the Secretary of State under sub-paragraph (1)(b), it shall notify the Assembly in writing that it has done so and send the Assembly a copy of the scheme.
- 7 (1) Where a scheme is referred to the Secretary of State he shall—
- (a) approve it;
  - (b) request the public authority to make a revised scheme; or
  - (c) make a scheme for the public authority.
- (2) A request under sub-paragraph (1)(b) shall be treated in the same way as a request under paragraph 3(1)(b).
- (3) Where the Secretary of State—
- (a) requests a revised scheme under sub-paragraph (1)(b); or
  - (b) makes a scheme under sub-paragraph (1)(c),
- he shall notify the Assembly in writing that he has done so and, in a case falling within paragraph (b), send the Assembly a copy of the scheme.
- 8 (1) If a public authority wishes to revise a scheme it may submit a revised scheme to the Commission.

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- (2) A revised scheme shall be treated as if it were submitted in response to a request under paragraph 3(1)(b).
- (3) A public authority shall, before the end of the period of five years beginning with the submission of its current scheme, or the latest review of that scheme under this subparagraph, whichever is the later, review that scheme and inform the Commission of the outcome of the review.

#### *Duties arising out of equality schemes*

- 9 (1) In publishing the results of such an assessment as is mentioned in paragraph 4(2)(b), a public authority shall state the aims of the policy to which the assessment relates and give details of any consideration given by the authority to—
  - (a) measures which might mitigate any adverse impact of that policy on the promotion of equality of opportunity; and
  - (b) alternative policies which might better achieve the promotion of equality of opportunity.
- (2) In making any decision with respect to a policy adopted or proposed to be adopted by it, a public authority shall take into account any such assessment and consultation as is mentioned in paragraph 4(2)(b) carried out in relation to the policy.
- (3) In this paragraph “equality of opportunity” has the same meaning as in paragraph 4.

#### *Complaints*

- 10 (1) If the Commission receives a complaint made in accordance with this paragraph of failure by a public authority to comply with a scheme approved or made under paragraph 6 or 7, it shall—
  - (a) investigate the complaint; or
  - (b) give the complainant reasons for not investigating.
- (2) A complaint must be made in writing by a person who claims to have been directly affected by the failure.
- (3) A complaint must be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.
- (4) Before making a complaint the complainant must—
  - (a) bring the complaint to the notice of the public authority; and
  - (b) give the public authority a reasonable opportunity to respond.

#### *Investigations*

- 11 (1) This paragraph applies to—
  - (a) investigations required by paragraph 10; and
  - (b) any other investigation carried out by the Commission where it believes that a public authority may have failed to comply with a scheme approved or made under paragraph 6 or 7.
- (2) The Commission shall send a report of the investigation to—
  - (a) the public authority concerned;
  - (b) the Secretary of State; and



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- (c) the complainant (if any).
- (3) If a report recommends action by the public authority concerned and the Commission considers that the action is not taken within a reasonable time—
  - (a) the Commission may refer the matter to the Secretary of State; and
  - (b) the Secretary of State may give directions to the public authority in respect of any matter referred to him.
- (4) Where the Commission—
  - (a) sends a report to the Secretary of State under sub-paragraph (2)(b); or
  - (b) refers a matter to the Secretary of State under sub-paragraph (3)(a),it shall notify the Assembly in writing that it has done so and, in a case falling within paragraph (a), send the Assembly a copy of the report.
- (5) Where the Secretary of State gives directions to a public authority under sub-paragraph (3)(b), he shall notify the Assembly in writing that he has done so.

#### *Government departments*

- 12
- (1) Paragraphs 6, 7 and 11(2)(b) and (3) do not apply to a government department which is such a public authority as is mentioned in section 75(3)(a).
  - (2) On receipt of a scheme submitted by such a government department under paragraph 2 or 3 the Commission shall—
    - (a) approve it; or
    - (b) request the department to make a revised scheme.
  - (3) A request under sub-paragraph (2)(b) shall be treated in the same way as a request under paragraph 3(1)(b).
  - (4) Where a request is made under sub-paragraph (2)(b), the government department shall, if it does not submit a revised scheme to the Commission before the end of the period of six months beginning with the date of the request, send to the Commission a written statement of the reasons for not doing so.
  - (5) The Commission may lay before Parliament and the Assembly a report of any investigation such as is mentioned in paragraph 11(1) relating to a government department such as is mentioned in sub-paragraph (1).

## SCHEDULE 10

Section 79.

### DEVOLUTION ISSUES

#### PART I

##### PRELIMINARY

- 1
- In this Schedule “devolution issue” means—
    - (a) a question whether any provision of an Act of the Assembly is within the legislative competence of the Assembly;

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- (b) a question whether a purported or proposed exercise of a function by a Minister or Northern Ireland department is, or would be, invalid by reason of section 24;
  - (c) a question whether a Minister or Northern Ireland department has failed to comply with any of the Convention rights, any obligation under Community law or any order under section 27 so far as relating to such an obligation; or
  - (d) any question arising under this Act about excepted or reserved matters.
- 2 A devolution issue shall not be taken to arise in any proceedings merely because of any contention of a party to the proceedings which appears to the court or tribunal before which the proceedings take place to be frivolous or vexatious.

## PART II

### PROCEEDINGS IN NORTHERN IRELAND

#### *Application of Part II*

- 3 This Part of this Schedule applies in relation to devolution issues in proceedings in Northern Ireland.

#### *Institution of proceedings*

- 4 (1) Proceedings for the determination of a devolution issue may be instituted or defended by the Attorney General or the Attorney General for Northern Ireland.
- (2) The First Minister and the deputy First Minister acting jointly may defend any such proceedings.
- (3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

#### *Notice of devolution issue*

- 5 A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General, the Attorney General for Northern Ireland, the First Minister and the deputy First Minister (unless the person to whom the notice would be given is a party to the proceedings).
- 6 A person to whom notice is given in pursuance of paragraph 5 <sup>F169</sup>... may take part as a party in the proceedings, so far as they relate to a devolution issue.

#### Textual Amendments

**F169** Words in Sch. 10 para. 6 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 13; S.R. 2010/52, art. 2(e)

*Status: Point in time view as at 01/03/2010. This version of this Act contains provisions that are prospective.*  
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*Reference of devolution issue to Court of Appeal*

- 7 A court, other than the [<sup>F170</sup>Supreme Court] or the Court of Appeal in Northern Ireland, may refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland.

**Textual Amendments**

**F170** Words in Sch. 10 para. 7 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 115(2); S.I. 2009/1604, art. 2(a)(d)

- 8 A tribunal from which there is no appeal shall refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland; and any other tribunal may make such a reference.

*References from Court of Appeal to [<sup>F171</sup>Supreme Court]*

**Textual Amendments**

**F171** Words in Sch. 10 cross-heading preceding para. 9 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 115(3); S.I. 2009/1604, art. 2(a)(d)

- 9 The Court of Appeal in Northern Ireland may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 7 or 8) to the [<sup>F172</sup>Supreme Court] .

**Textual Amendments**

**F172** Words in Sch. 10 para. 9 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 115(4); S.I. 2009/1604, art. 2(a)(d)

*Appeals from Court of Appeal to [<sup>F173</sup>Supreme Court]*

**Textual Amendments**

**F173** Words in Sch. 10 cross-heading preceding para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 115(5); S.I. 2009/1604, art. 2(a)(d)

- 10 An appeal against a determination of a devolution issue by the Court of Appeal in Northern Ireland on a reference under paragraph 7 or 8 shall lie to the [<sup>F174</sup>Supreme Court] , but only with [<sup>F175</sup>permission] of the Court of Appeal in Northern Ireland or, failing such [<sup>F175</sup>permission], with [<sup>F176</sup>permission] of the [<sup>F174</sup>Supreme Court].

**Textual Amendments**

**F174** Words in Sch. 10 para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 115(6)(a); S.I. 2009/1604, art. 2(a)(d)

**F175** Words in Sch. 10 para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 115(6)(b); S.I. 2009/1604, art. 2(a)(d)

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**F176** Words in Sch. 10 para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 115(6)(c); S.I. 2009/1604, art. 2(a)(d)

### PART III

#### PROCEEDINGS IN ENGLAND AND WALES

##### *Application of Part III*

- 11 This Part of this Schedule applies in relation to devolution issues in proceedings in England and Wales.

##### *Institution of proceedings*

- 12 (1) Proceedings for the determination of a devolution issue may be instituted <sup>F177</sup>... by the Attorney General.
- (2) The Attorney General for Northern Ireland <sup>F177</sup>... may defend any such proceedings.
- (3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

##### **Textual Amendments**

**F177** Words in Sch. 10 para. 12 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 13; S.R. 2010/52, art. 2(e)

##### *Notice of devolution issue*

- 13 A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General, the Attorney General for Northern Ireland, the First Minister and the deputy First Minister (unless the person to whom the notice would be given is a party to the proceedings).
- 14 A person to whom notice is given in pursuance of paragraph 13 <sup>F178</sup>... may take part as a party in the proceedings, so far as they relate to a devolution issue.

##### **Textual Amendments**

**F178** Words in Sch. 10 para. 14 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 13; S.R. 2010/52, art. 2(e)

##### *Reference of devolution issue to High Court or Court of Appeal*

- 15 A magistrates' court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the High Court.
- 16 (1) A court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Court of Appeal.
- (2) Sub-paragraph (1) does not apply to—

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- (a) a magistrates' court, the Court of Appeal or the [<sup>F179</sup>Supreme Court]; or
- (b) the High Court if the devolution issue arises in proceedings on a reference under paragraph 15.

#### Textual Amendments

**F179** Words in Sch. 10 para. 16(2)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 116(2); S.I. 2009/1604, art. 2(a)(d)

- 17 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Court of Appeal; and any other tribunal may make such a reference.
- 18 A court, other than the [<sup>F180</sup>Supreme Court] or the Court of Appeal, may refer any devolution issue which arises in criminal proceedings before it to—
- (a) the High Court (if the proceedings are summary proceedings); or
  - (b) the Court of Appeal (if the proceedings are proceedings on indictment).

#### Textual Amendments

**F180** Words in Sch. 10 para. 18 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 116(3); S.I. 2009/1604, art. 2(a)(d)

#### *References from Court of Appeal to [<sup>F181</sup>Supreme Court]*

#### Textual Amendments

**F181** Words in Sch. 10 cross-heading preceding para. 19 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 116(4); S.I. 2009/1604, art. 2(a)(d)

- 19 The Court of Appeal may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 16, 17 or 18) to the [<sup>F182</sup>Supreme Court] .

#### Textual Amendments

**F182** Words in Sch. 10 para. 19 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 116(5); S.I. 2009/1604, art. 2(a)(d)

#### *Appeals from superior courts to [<sup>F183</sup>Supreme Court]*

#### Textual Amendments

**F183** Words in Sch. 10 cross-heading preceding para. 20 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 116(6); S.I. 2009/1604, art. 2(a)(d)

- 20 An appeal against a determination of a devolution issue by the High Court or the Court of Appeal on a reference under paragraph 15, 16, 17 or 18 shall lie

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to the [<sup>F184</sup>Supreme Court] , but only with [<sup>F185</sup>permission] of the High Court or the Court of Appeal or, failing such [<sup>F185</sup>permission] , with [<sup>F186</sup>permission] of the [<sup>F184</sup>Supreme Court] .

#### Textual Amendments

- F184** Words in Sch. 10 para. 20 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 116\(7\)\(a\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F185** Words in Sch. 10 para. 20 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 116\(7\)\(b\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F186** Words in Sch. 10 para. 20 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\), ss. 40, 148, Sch. 9 para. 116\(7\)\(c\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

## PART IV

### PROCEEDINGS IN SCOTLAND

#### *Application of Part IV*

- 21 This Part of this Schedule applies in relation to devolution issues in proceedings in Scotland.

#### *Institution of proceedings*

- 22 (1) Proceedings for the determination of a devolution issue may be instituted <sup>F187</sup>... by the Advocate General for Scotland.
- (2) The Attorney General for Northern Ireland <sup>F187</sup>... may defend any such proceedings.
- (3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

#### Textual Amendments

- F187** Words in Sch. 10 para. 22 repealed (1.3.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), s. 87\(1\), Sch. 13](#); S.R. 2010/52, [art. 2\(e\)](#)

#### *Intimation of devolution issue*

- 23 Intimation of any devolution issue which arises in any proceedings before a court or tribunal shall be given to the Advocate General for Scotland, the Attorney General for Northern Ireland, the First Minister and the deputy First Minister (unless the person to whom the intimation would be given is a party to the proceedings).
- 24 A person to whom intimation is given in pursuance of paragraph 23 <sup>F188</sup>... may take part as a party in the proceedings, so far as they relate to a devolution issue.

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#### Textual Amendments

**F188** Words in Sch. 10 para. 24 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 13; S.R. 2010/52, art. 2(e)

#### *Reference of devolution issue to higher court*

- 25 A court, other than the [<sup>F189</sup>Supreme Court] or any court consisting of three or more judges of the Court of Session, may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Inner House of the Court of Session.

#### Textual Amendments

**F189** Words in Sch. 10 para. 25 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(2); S.I. 2009/1604, art. 2(a)(d)

- 26 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.
- 27 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

#### *References from superior courts to [<sup>F190</sup>Supreme Court]*

#### Textual Amendments

**F190** Words in cross-heading preceding Sch. 10 para. 28 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(3); S.I. 2009/1604, art. 2(a)(d)

- 28 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 25 or 26) to the [<sup>F191</sup>Supreme Court] .

#### Textual Amendments

**F191** Words in Sch. 10 para. 28 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(4); S.I. 2009/1604, art. 2(a)(d)

- 29 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 27) to the [<sup>F192</sup>Supreme Court] .

#### Textual Amendments

**F192** Words in Sch. 10 para. 29 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, Sch. 9 para. 117(5); S.I. 2009/1604, art. 2(a)(d)

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### Appeals from superior courts to <sup>F193</sup>Supreme Court]

#### Textual Amendments

**F193** Words in cross-heading preceding Sch. 10 para. 30 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, {Sch. 9 para. 117(6)}; S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 30 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 25 or 26 shall lie to the [<sup>F194</sup>Supreme Court] .

#### Textual Amendments

**F194** Words in [Sch. 10 para. 30](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(7\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 31 An appeal against a determination of a devolution issue by—
- (a) a court of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 27); or
  - (b) a court of three or more judges of the Court of Session from which there is no appeal to the [<sup>F195</sup>Supreme Court apart from this paragraph] ,
- shall lie to the [<sup>F196</sup>Supreme Court] , but only with [<sup>F197</sup>permission] of the court concerned or, failing such [<sup>F197</sup>permission] , with [<sup>F198</sup>permission] of the [<sup>F196</sup>Supreme Court] .

#### Textual Amendments

- F195** Words in [Sch. 10 para. 31](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(a\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F196** Words in [Sch. 10 para. 31](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(b\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F197** Words in [Sch. 10 para. 31](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(c\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)
- F198** Words in [Sch. 10 para. 31](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 117\(8\)\(d\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

## PART V

### GENERAL

*F199*  
...

#### Textual Amendments

**F199** [Sch. 10 para. 32](#) and preceding cross-heading repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 146, 148, [Sch. 9 para. 118\(2\)](#), [Sch. 18 Pt. 5](#); S.I. 2009/1604, [art. 2\(a\)\(d\)\(f\)](#)



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#### Textual Amendments

**F200** Sch. 10 para. 32 and preceding cross-heading repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 146, 148, [Sch. 9 para. 118\(2\)](#), [Sch. 18 Pt. 5](#); S.I. 2009/1604, [art. 2\(a\)\(d\)\(f\)](#)

#### Direct references to <sup>F201</sup>Supreme Court]

#### Textual Amendments

**F201** Words in cross-heading preceding Sch. 10 para. 33 substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 118\(3\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 33 The Attorney General, the Attorney General for Northern Ireland, the First Minister and the deputy First Minister acting jointly or the Advocate General for Scotland may require any court or tribunal to refer to the [<sup>F202</sup>Supreme Court] any devolution issue which has arisen in proceedings before it to which he is or they are a party.

#### Textual Amendments

**F202** Words in [Sch. 10 para. 33](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 118\(4\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 34 The Attorney General, the Attorney General for Northern Ireland, the First Minister and the deputy First Minister acting jointly or the Advocate General for Scotland may refer to the [<sup>F203</sup>Supreme Court] any devolution issue which is not the subject of proceedings.

#### Textual Amendments

**F203** Words in [Sch. 10 para. 34](#) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 118\(5\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 35 (1) This paragraph applies where a reference is made under paragraph 34 in relation to a devolution issue which relates to the proposed exercise of a function by a Northern Ireland Minister or department.
- (2) The person making the reference shall notify the Northern Ireland Minister or department of that fact.
- (3) No Northern Ireland Minister or department shall exercise the function in the manner proposed during the period beginning with the receipt of the notification under sub-paragraph (2) and ending with the reference being decided or otherwise disposed of.
- (4) Proceedings relating to any possible failure by a Northern Ireland Minister or department to comply with sub-paragraph (3) may be instituted by the Attorney General for Northern Ireland.
- (5) Sub-paragraph (4) is without prejudice to any power to institute proceedings exercisable apart from that sub-paragraph by any person.

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### *Delegation by First Ministers*

F204 36 .....

#### **Textual Amendments**

**F204** Sch. 10 para. 36 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), Sch. 13; S.R. 2010/52, art. 2(e)

### *Expenses*

- 37 (1) A court or tribunal before which any proceedings take place may take account of any additional expense of the kind mentioned in sub-paragraph (3) in deciding any question as to costs or expenses.
- (2) In deciding any such question, the court or tribunal may award the whole or part of the additional expense as costs or expenses to the party who incurred it (whatever the decision on the devolution issue).
- (3) The additional expense is any additional expense which the court or tribunal considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of paragraph 6, 14 or 24.

### *Procedure of courts and tribunals*

- 38 Any power to make provision for regulating the procedure before any court or tribunal shall include power to make provision for the purposes of this Schedule including, in particular, provision—
- (a) for prescribing the stage in the proceedings at which a devolution issue is to be raised or referred;
  - (b) for the staying or sisting of proceedings for the purpose of any proceedings under this Schedule; and
  - (c) for determining the manner in which and the time within which any notice or intimation is to be given.

### *Bail and legal aid in criminal proceedings*

- 39 (1) Sub-paragraph (3) applies where a devolution issue arises in proceedings against a person (“the defendant”) for an offence and the issue is referred to the Court of Appeal in Northern Ireland under paragraph 7.
- (2) Sub-paragraphs (3) and (4) apply where such an issue arises in such proceedings and—
- (a) the issue is referred by the [F205Court of Appeal] to the [F206Supreme Court] under paragraph 9 or 33; or
  - (b) the issue is determined by the [F205Court of Appeal] under paragraph 7 and—
    - (i) an appeal to the [F206Supreme Court] against the determination is brought under paragraph 10; or
    - (ii) an application for leave to bring such an appeal is made to the [F205Court of Appeal] under that paragraph.

*Status: Point in time view as at 01/03/2010. This version of this Act contains provisions that are prospective.*

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- (3) The [F205 Court of Appeal] may, if it thinks fit, on the application of the defendant, admit him to bail pending the determination of the reference, appeal or application.
- (4) The [F205 Court of Appeal] may at any time when it appears to the [F205 Court of Appeal]—
- (a) that it is desirable in the interests of justice that the defendant should have legal aid; and
  - (b) that he has not sufficient means to obtain that aid,
- assign to him a solicitor and counsel, or counsel only, in the reference, appeal or application.
- (5) If, on a question of granting a person free legal aid under sub-paragraph (4), there is a doubt—
- (a) whether it is desirable in the interests of justice that he should have legal aid; or
  - (b) whether he has sufficient means to obtain that aid,
- the doubt shall be resolved in favour of granting him free legal aid.
- (6) The fees of any counsel, and the expenses and fees of any solicitor, assigned to a person under sub-paragraph (4) shall be defrayed, up to an amount allowed by the Master (Taxing Office), by the Lord Chancellor out of money provided by Parliament.

#### Textual Amendments

**F205** Words in Sch. 10 para. 39(2)-(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 118\(6\)\(a\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

**F206** Words in Sch. 10 para. 39(2)-(4) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 118\(6\)\(b\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

- 40 Where a devolution issue arises as mentioned in sub-paragraph (1) of paragraph 39 and—
- (a) the issue is referred to the [F207 Supreme Court] under paragraph 9 or 33; or
  - (b) the issue is determined by the Court of Appeal in Northern Ireland under paragraph 7 and—
    - (i) an appeal to the [F207 Supreme Court] against the determination is brought under paragraph 10; or
    - (ii) an application for special leave to bring such an appeal is made to the [F207 Supreme Court] under that paragraph,
- sub-paragraphs (3) to (6) of paragraph 39 shall apply as if the references to the [F208 Court of Appeal] were references to the [F207 Supreme Court] .

#### Textual Amendments

**F207** Words in Sch. 10 para. 40(a)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 119\(a\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

**F208** Words in Sch. 10 para. 40(a)(b) substituted (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 148, [Sch. 9 para. 119\(b\)](#); S.I. 2009/1604, [art. 2\(a\)\(d\)](#)

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### *Interpretation*

- 41 Any duty or power conferred by this Schedule to refer a devolution issue to a court shall be construed as a duty or power to refer the issue to the court for decision.

## SCHEDULE 11

Section 91(1).

### TRIBUNAL ESTABLISHED UNDER SECTION 91

#### *Introductory*

- 1 In this Schedule “the Tribunal” means the tribunal established under section 91.

#### **Commencement Information**

- I21** Sch. 11 para. 1 wholly in force at 2.8.1999; Sch. 11 para. 1 not in force at Royal Assent see s. 101(3); Sch. 11 para. 1 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), Sch. Pt. 2; Sch. 11 para. 1 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, art. 5

#### *Members*

- 2 (1) The Tribunal shall consist of such number of members appointed by the Lord Chancellor as he may determine.
- (2) A member of the Tribunal shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.
- (3) A member of the Tribunal may resign his office at any time by notice in writing to the Lord Chancellor.

#### **Commencement Information**

- I22** Sch. 11 para. 2 wholly in force at 2.8.1999; Sch. 11 para. 2 not in force at Royal Assent see s. 101(3); Sch. 11 para. 2 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), Sch. Pt. 2; Sch. 11 para. 2 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, art. 5

#### *Chairman*

- 3 (1) The Lord Chancellor shall appoint one of the members of the Tribunal to be its chairman.
- (2) The chairman may nominate a member as deputy chairman to act in his absence.
- (3) A member may not be appointed as chairman or nominated as deputy chairman, unless he holds, or has held, office as a judge of the High Court, the High Court of Justice in Northern Ireland, the Court of Appeal or the Court of Appeal in Northern Ireland.
- (4) The chairman may resign his office at any time by notice in writing to the Lord Chancellor.

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#### Commencement Information

- I23** Sch. 11 para. 3 wholly in force at 2.8.1999; Sch. 11 para. 3 not in force at Royal Assent see s. 101(3); Sch. 11 para. 3 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), Sch. Pt. 2; Sch. 11 para. 3 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, art. 5

#### *Payments to members*

- 4 (1) The Lord Chancellor may pay to the members of the Tribunal such remuneration and allowances as he may determine.
- (2) The Lord Chancellor may, if he thinks fit in the case of any member of the Tribunal pay such pension, allowance or gratuity to or in respect of the member, or such sums towards the provision of such pension, allowance or gratuity, as he may determine.
- (3) If a person ceases to be a member of the Tribunal and it appears to the Lord Chancellor that there are special circumstances which make it right that the person should receive compensation, he may pay to that person a sum of such amount as he may determine.

#### *Proceedings*

- 5 (1) The Tribunal shall sit at such times and in such places as the [<sup>F209</sup>Lord Chief Justice] may direct.
- [<sup>F210</sup>(2) The Lord Chief Justice may nominate any of the following to exercise his functions under this paragraph—
- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]

#### Textual Amendments

- F209** Sch. 11 para. 5 renumbered as Sch. 11 para. 5(1) and words in para. 5(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 para. 108(2)(3); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(b)
- F210** Sch. 11 para. 5(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, Sch. 5 para. 108(4); S.I. 2006/1014, art. 2(a), Sch. 1 para. 12(b)

- 6 The Tribunal shall be deemed to be duly constituted if it consists of the chairman or deputy chairman and two or more other members.
- 7 The chairman or, in his absence, the deputy chairman, shall preside at sittings of the Tribunal.

#### *Staff*

- 8 The Lord Chancellor may appoint such officers and servants for the Tribunal as he thinks fit.

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#### Commencement Information

- I24** Sch. 11 para. 8 wholly in force at 2.8.1999; Sch. 11 para. 8 not in force at Royal Assent see s. 101(3); Sch. 11 para. 8 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), Sch. Pt. 2; Sch. 11 para. 8 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, art. 5

#### Expenses

- 9 The Lord Chancellor shall defray the remuneration of persons appointed under paragraph 8 and such expenses of the Tribunal as he thinks fit.

#### Disqualification of Tribunal Members

- 10 In Part II of Schedule 1 to the <sup>M116</sup>House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) at the appropriate place insert— “ The Tribunal established under section 91 of the Northern Ireland Act 1998 ”.

#### Marginal Citations

**M116** 1975 c.24.

- 11 In Part II of Schedule 1 to the <sup>M117</sup>Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) at the appropriate place insert — “ The Tribunal established under section 91 of the Northern Ireland Act 1998 ”.

#### Marginal Citations

**M117** 1975 c.25.

## SCHEDULE 12

Section 95(5).

### CONSTRUCTION OF REFERENCES IN EXISTING LAWS

#### Preliminary

- 1 (1) Enactments and instruments shall, except where the context otherwise requires, be construed in accordance with this Schedule.  
(2) In this Schedule “instruments” includes charters, contracts and other documents.

#### The Parliament and the old Assembly

- 2 (1) References to the Parliament of Northern Ireland shall be construed as including references to—  
(a) the Assembly established under section 1 of the <sup>M118</sup>Northern Ireland Assembly Act 1973; and  
(b) the Assembly.

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- (2) References to the Assembly established under section 1 of the Northern Ireland Assembly Act 1973 shall be construed as including references to the Assembly.

**Marginal Citations**

**M118** 1973 c.17.

*Legislation etc of the Parliament or the old Assembly*

- 3 (1) A reference to an Act or enactment of the Parliament of Northern Ireland shall be construed as including a reference to an Order in Council under section 1(3) of the <sup>M119</sup>Northern Ireland (Temporary Provisions) Act 1972.
- (2) A reference to an Act or enactment of, or a Bill in, the Parliament of Northern Ireland shall be construed as including a reference to—
- (a) a Measure or proposed Measure of the Assembly established under section 1 of the <sup>M120</sup>Northern Ireland Assembly Act 1973; and
- (b) an Act or Bill of the Assembly.
- (3) A reference to a Measure or proposed Measure of the Assembly so established shall be construed as including a reference to an Act or Bill of the Assembly.
- (4) A reference to a Measure of the Assembly so established shall be construed as including a reference to an Order in Council under paragraph 1 of Schedule 1 to the <sup>M121</sup>Northern Ireland Act 1974.

**Marginal Citations**

**M119** 1972 c.22.

**M120** 1973 c.17.

**M121** 1974 c.28.

- 4 (1) A reference to a resolution or other decision of the Senate or the House of Commons of the Parliament of Northern Ireland, or of either House of that Parliament, shall be construed as including a reference to a resolution or decision of—
- (a) the Assembly established under section 1 of the Northern Ireland Assembly Act 1973; or
- (b) the Assembly.
- (2) A reference to a resolution or other decision of the Assembly established under section 1 of the Northern Ireland Assembly Act 1973 shall be construed as a reference to a resolution or decision of the Assembly.
- 5 A reference to laying a document before, or presenting it to—
- (a) the Parliament of Northern Ireland or either House of that Parliament; or
- (b) the Assembly established under section 1 of the <sup>M122</sup>Northern Ireland Assembly Act 1973,
- shall be construed as a reference to laying it before, or presenting it to, the Assembly.

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**Marginal Citations**

M122 1973 c.17.

- 6 Paragraphs 2 to 5 apply to enactments and instruments passed or made before the appointed day.

*Money*

- 7 (1) A reference to—
- (a) money provided by the Parliament of Northern Ireland; or
  - (b) money appropriated by Measure of the Assembly established under section 1 of the Northern Ireland Assembly Act 1973,
- shall be construed as a reference to money appropriated by Act of the Assembly.
- (2) A reference to payment into or out of the Exchequer of Northern Ireland shall be construed as a reference to payment into or out of the Consolidated Fund of Northern Ireland.
- (3) This paragraph applies to enactments and instruments passed or made before the appointed day.

*Office-holders and Ministers*

- 8 (1) A reference to—
- (a) the Governor of Northern Ireland;
  - (b) the Governor of Northern Ireland in Council; or
  - (c) the making of an Order in Council by the Governor of Northern Ireland,
- shall be construed as a reference to the Secretary of State or, as the case may be, the making of an order by the Secretary of State.
- (2) This paragraph applies to enactments and instruments passed or made before 1st January 1974.
- 9 (1) A reference to—
- (a) the Prime Minister of Northern Ireland; or
  - (b) the chief executive member,
- shall be construed as a reference to the First Minister and deputy First Minister acting jointly.
- (2) References to Northern Ireland executive authorities shall be construed as references to Ministers and the Northern Ireland departments.
- (3) A reference to—
- (a) the Executive Committee for Northern Ireland; or
  - (b) the Northern Ireland Executive,
- shall be construed as a reference to the Executive Committee established by section 20.
- (4) This paragraph applies to enactments and instruments passed or made before the appointed day.
- 10 (1) A reference to—



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- (a) a particular Ministry of Northern Ireland; or  
(b) the Minister in charge of a particular Ministry,
- shall, in relation to a function, be construed as a reference to the Northern Ireland department which exercises that function or to the Northern Ireland Minister in charge of that department.
- (2) A reference to an unspecified Ministry shall be construed as a reference to a Northern Ireland department.
- (3) This paragraph applies to enactments and instruments passed or made before 1st January 1974.
- 11 (1) A reference to—
- (a) an unspecified Minister of Northern Ireland; or  
(b) the head of a Northern Ireland department,
- shall be construed as a reference to a Northern Ireland Minister.
- (2) A reference to the head of a specified Northern Ireland department shall, in relation to a function, be construed as a reference to the Northern Ireland Minister in charge of the department which exercises that function.
- (3) In sub-paragraph (1) “Northern Ireland Minister” includes the First Minister and the deputy First Minister.
- (4) This paragraph applies to enactments and instruments passed or made before the appointed day.

#### *Courts*

- 12 (1) A reference to the Supreme Court of Judicature in Ireland shall be construed as a reference to the [F211Court of Judicature] .
- (2) A reference to the High Court of Justice in Ireland shall be construed as a reference to the High Court of Justice in Northern Ireland.
- (3) A reference to the Court of Appeal in Ireland shall be construed as a reference to the Court of Appeal in Northern Ireland.
- (4) This paragraph applies to enactments and instruments passed or made before the passing of the M123Government of Ireland Act 1920.

#### **Textual Amendments**

F211 Words in Sch. 12 para. 12(1) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4). ss. 59, 148, {Sch. 11 para. 33(3)}; S.I. 2009/1604, art. 2(b)(d)

#### **Marginal Citations**

M123 1920 c.67.

#### *Equal opportunity bodies*

- 13 (1) A reference to—
- (a) the Fair Employment Commission for Northern Ireland;

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- (b) the Equal Opportunities Commission for Northern Ireland;
- (c) the Commission for Racial Equality for Northern Ireland; or
- (d) the Northern Ireland Disability Council,

shall be construed as a reference to the Equality Commission for Northern Ireland.

- (2) This paragraph applies to enactments and instruments passed or made before section 74 comes into force.

## [<sup>F212</sup>SCHEDULE 12A

Section 95A(10)

### EFFECT OF APPLICATION OF SECTION 95A(6) OR (7)

#### Textual Amendments

**F212** Sch. 12A inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 10(3), 12; S.I. 2004/83, art. 2

#### *Directions under section 30A(5): Northern Ireland Ministers and junior Ministers*

- 1 (1) Paragraphs 2 to 4 apply where a direction under section 30A(5) ceases to have effect under section 95A(6) or (7).
- (2) In those paragraphs “the relevant time” means the time when the direction so ceases to have effect.
- 2 (1) A person who holds office as a Northern Ireland Minister or junior Minister immediately before the relevant time shall cease at the relevant time to hold that office if another person—
- (a) held that office immediately before the direction was given, but
  - (b) ceased to hold it by reason of his being excluded by the direction.
- (2) That other person shall fill the vacancy if he remains eligible to hold that office.
- 3 If—
- (a) an office of Northern Ireland Minister or junior Minister is vacant immediately before the relevant time, and
  - (b) immediately before the direction was given that office was held by a person who ceased to hold it by reason of his being excluded by the direction,
- that person shall fill the vacancy if he remains eligible to hold that office.
- 4 Section 18(10) (and section 18(11)), and any provision made under section 19(3) (a) for the filling of vacancies, shall have effect subject to paragraphs 2 and 3.

#### *Directions under section 30A(2) or (5): the First Minister and deputy First Minister*

- 5 (1) Paragraphs 6 to 8 apply where a direction under section 30A(2) or (5) ceases to have effect under section 95A(6) or (7).
- (2) In those paragraphs—
- “the relevant time” means the time when the direction so ceases to have effect;

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“the relevant offices” means the office of First Minister and the office of deputy First Minister.

- 6 (1) Sub-paragraphs (2) to (4) apply where—
- (a) as respects each of the relevant offices, the person who holds that office immediately before the relevant time did not hold it immediately before the direction was given, and
  - (b) as respects at least one of the relevant offices, the person who held that office immediately before the direction was given ceased to hold it by reason of his being excluded by the direction.
- (2) The persons holding the relevant offices immediately before the relevant time shall cease at that time to hold those offices.
- (3) As respects each of the relevant offices, the person (if any) who held that office immediately before the direction was given shall fill the vacancy in that office if—
- (a) he remains eligible to hold that office, and
  - (b) the person who held the other of the relevant offices immediately before the direction was given remains eligible to hold it.
- (4) If the vacancies in the relevant offices are filled under sub-paragraph (3), section [F<sup>213</sup>16B(3) to (9)] shall not apply by reason of the operation of sub-paragraph (2).

#### Textual Amendments

**F213** Words in [Sch. 12A para. 6\(4\)](#) substituted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\), ss. 8, 27\(4\)\(5\)](#) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\), s. 1\(1\)](#)), {[Sch. 5 para. 6\(2\)](#)} (with [s. 1\(3\)](#)); [S.I. 2007/1397, art. 2](#)

- 7 (1) Sub-paragraphs (2) to (4) apply where—
- (a) as respects one of the relevant offices, the person who holds it immediately before the relevant time held it immediately before the direction was given, and
  - (b) as respects the other of the relevant offices—
    - (i) the person who holds it immediately before the relevant time did not hold it immediately before the direction was given, and
    - (ii) the person who held it immediately before the direction was given ceased to hold it by reason of his being excluded by the direction.
- (2) The person who holds the office mentioned in sub-paragraph (1)(b) immediately before the relevant time shall cease at that time to hold that office.
- (3) The person who held that office immediately before the direction was given shall fill the vacancy in that office if he remains eligible to hold that office.
- (4) If the vacancy in that office is filled under sub-paragraph (3), [F<sup>214</sup>16B(2)] shall not apply by reason of the operation of sub-paragraph (2).

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### Textual Amendments

**F214** Words in Sch. 12A para. 7(4) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 6(3)} (with s. 1(3)); S.I. 2007/1397, art. 2

- 8 (1) Sub-paragraphs (2) to (4) apply where—
- (a) each of the relevant offices is vacant immediately before the relevant time as a result of having become vacant within [<sup>F215</sup>the period of seven days] ending with that time, and
  - (b) as respects at least one of the relevant offices, the person who held it immediately before the direction was given ceased to hold it by reason of his being excluded by the direction.
- (2) As respects each of the relevant offices, the person (if any) who held that office immediately before the direction was given shall fill the vacancy in that office if—
- (a) he remains eligible to hold that office, and
  - (b) the person who held the other of the relevant offices immediately before the direction was given remains eligible to hold it.
- (3) If the vacancies in the relevant offices are filled under sub-paragraph (2), no proceedings, or further proceedings, shall be taken under section [<sup>F216</sup>16B(3) to (9)] for the purpose of filling them.
- (4) If those vacancies are not filled under that sub-paragraph, the proceedings [<sup>F217</sup>under section 16B(3) to (9)] for the purpose of filling them shall be started afresh with the period [<sup>F218</sup>mentioned in section 16B(3)] being taken for the purposes of this Act to begin with the relevant time.

### Textual Amendments

**F215** Words in Sch. 12 para. 8(1)(a) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 6(4)} (with s. 1(3)); S.I. 2007/1397, art. 2

**F216** Words in Sch. 12A para. 8(3) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 6(5)} (with s. 1(3)); S.I. 2007/1397, art. 2

**F217** Words in Sch. 12A para 8(4) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 6(6)(a)} (with s. 1(3)); S.I. 2007/1397, art. 2

**F218** Words in Sch. 12 para. 8(4) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 6(6)(b)} (with s. 1(3)); S.I. 2007/1397, art. 2

### Directions under section 47B or 51B

- 9 (1) Sub-paragraphs (2) and (3) apply where a direction under section 47B or 51B ceases to have effect under section 95A(6) or (7).
- (2) After the direction has so ceased to have effect, any determination—

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- (a) of the sums payable under section 47 or under the Financial Assistance for Political Parties Act (Northern Ireland) 2000, or
  - (b) of when any such sums become due,
- shall be made as though the direction had never had effect.
- (3) Payment shall be made of any sums which would have been paid but for the direction.

*General*

- 10 Where a direction under section 30A, 47B or 51B ceases to have effect under section 95A(6) or (7), its so ceasing to have effect does not prejudice—
- (a) anything done in reliance on the direction while it had effect;
  - (b) the making of a new direction.]

SCHEDULE 13

Section 99.

MINOR AND CONSEQUENTIAL AMENDMENTS

*Fair Employment (Northern Ireland) Act 1976 (c.25)*

F219<sup>1</sup> .....

**Textual Amendments**

**F219** Sch. 13 para. 1 repealed (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(4), Sch. 5; S.R. 1999/81, art. 3(1)

*Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))*

- 2 (1) The Sex Discrimination (Northern Ireland) Order 1976 shall be amended as follows.
- (2) In Article 2(2) (interpretation), in the definition of “the Commission” for “the Equal Opportunities Commission for Northern Ireland” substitute “ the Equality Commission for Northern Ireland ”.
  - (3) In Article 54(1) (establishment of Equal Opportunities Commission for Northern Ireland)—
    - (a) in paragraph (1) for the words before paragraph (a) substitute “ The Commission shall have the following duties ”; and
    - (b) paragraphs (2) to (4) shall cease to have effect.
  - (4) Schedule 3 (the Equal Opportunities Commission for Northern Ireland) shall cease to have effect.

*Interpretation Act 1978 (c.30)*

- 3 In section 24(5) of the Interpretation Act 1978 (meaning of “Northern Ireland legislation”), for paragraphs (d) and (e) substitute—
- “(d) Measures of the Northern Ireland Assembly established under section 1 of the <sup>M124</sup>Northern Ireland Assembly Act 1973;

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- (e) Orders in Council under Schedule 1 to the <sup>M125</sup>Northern Ireland Act 1974;
- (f) Acts of the Northern Ireland Assembly; and
- (g) Orders in Council under section 85 of the Northern Ireland Act 1998.”

#### Marginal Citations

M124 1973 c.17.

M125 1974 c.28.

#### *Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I.12))*

- 4 In Part II of Schedule 1 to the Statutory Rules (Northern Ireland) Order 1979 (rule-making authorities), for “section 40 of and paragraph 4 of Schedule 5 to the Northern Ireland Constitution Act 1973” substitute “ section 95(5) of and paragraph 8 of Schedule 12 to the Northern Ireland Act 1998 ”.

#### *Mental Health Act 1983 (c.20)*

- 5 (1) The Mental Health Act 1983 shall be amended as follows.
- (2) In section 134(3)(a) (correspondence of patients), after “Parliament” insert “ or of the Northern Ireland Assembly ”.
- (3) In section 141 (members of the House of Commons suffering from mental illness), after subsection (9) insert—
- “(10) This section also has effect in relation to members of the Northern Ireland Assembly but as if—
- (a) references to the House of Commons were to the Assembly and references to the Speaker were to the Presiding Officer; and
  - (b) in subsection (7), for “provided by Parliament” there were substituted “appropriated by Act of the Assembly”.”

#### *Insolvency Act 1986 (c.45)*

- 6 In section 427 of the Insolvency Act 1986 (members of the House of Commons who are adjudged bankrupt etc.), after subsection (6B) insert—
- “(6C) Subsection (1), as applied to a member of the Northern Ireland Assembly by virtue of section 36(4) of the Northern Ireland Act 1998, has effect as if “or Northern Ireland” were omitted; and subsections (4) to (6) have effect in relation to such a member as if—
- (a) references to the House of Commons were to the Assembly and references to the Speaker were to the Presiding Officer; and
  - (b) in subsection (4), for “under this section” there were substituted “under section 36(4) of the Northern Ireland Act 1998 by virtue of this section”.”

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*Audit (Northern Ireland) Order 1987 (S.I. 1987/460 (N.I.5))*

- 7 In Article 6(2) of the Audit (Northern Ireland) Order 1987 (expenses and accounts of Northern Ireland Audit Office)—
- (a) for “the Department”, in the first place where it occurs, substitute “ the committee established under section 66 of the Northern Ireland Act 1998 ”; and
  - (b) for “the Department”, in the second place where it occurs, substitute “ that committee ”.

*Copyright, Designs and Patents Act 1988 (c.48)*

- 8 (1) The Copyright, Designs and Patents Act 1988 shall be amended as follows.
- (2) <sup>F220</sup> .....
  - (3) <sup>F220</sup> .....
  - (4) <sup>F220</sup> .....
  - (5) In section 164(1) (Crown copyright in Acts of Parliament, etc.), after “Scottish Parliament” insert “ , Act of the Northern Ireland Assembly ”.
  - (6) After section 166A insert—

**“166B Copyright in Bills of the Northern Ireland Assembly.**

- (1) Copyright in every Bill introduced into the Northern Ireland Assembly belongs to the Northern Ireland Assembly Commission.
- (2) Copyright under this section subsists from the time when the text of the Bill is handed in to the Assembly for introduction—
  - (a) until the Bill receives Royal Assent, or
  - (b) if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.
- (3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.
- (4) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having received Royal Assent, is later reintroduced into the Assembly.”
- (7) In the definition of “parliamentary proceedings” in section 178 (definitions), the words “, of the New Northern Ireland Assembly” shall cease to have effect.
- (8) In section 179 (index of defined expressions), in column 2 of the entry for “Parliamentary copyright”, for “and 166A(3)” substitute “ 166A(3) and 166B(3) ”.

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#### Textual Amendments

**F220** Sch. 13 para. 8(2)-(4) repealed (1.4.2007) by [Government of Wales Act 2006 \(c. 32\)](#), ss. 161, 163, [Sch. 12](#), (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to [s. 161\(4\)\(5\)](#) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) see [ss. 46, 161\(1\)\(4\)\(5\)](#) of the amending Act.

#### *Official Secrets Act 1989 (c.6)*

- 9 (1) Section 12 of the Official Secrets Act 1989 (interpretation) shall be amended as follows.
- (2) Subsection (1)(b) shall cease to have effect.
- (3) After subsection (4) insert—
- “(5) This Act shall apply to the following as it applies to persons falling within the definition of Crown servant—
- (a) the First Minister and deputy First Minister in Northern Ireland; and
- (b) Northern Ireland Ministers and junior Ministers.”

#### *Fair Employment (Northern Ireland) Act 1989 (c.32)*

**F221** 10 .....

#### Textual Amendments

**F221** Sch. 13 para. 10 repealed (1.3.1999) by [S.I. 1998/3162 \(N.I. 21\)](#), art. 105(4), [Sch. 5](#); [S.R. 1999/81](#), art. 3(1)

#### *Social Security Administration Act 1992 (c.5)*

- 11 In section 189 of the Social Security Administration Act 1992 (regulations and orders: general)—
- (a) in subsection (9), for “175 and 178” substitute “ and 175 ”; and
- (b) in subsection (11), for “any of sections 177 to 179” substitute “ section 179 ”.

#### *Social Security Administration (Northern Ireland) Act 1992 (c.8)*

- 12 In section 165 of the Social Security Administration (Northern Ireland) Act 1992 (regulations and orders: general)—
- (a) in subsection (10), for “152 and 154” substitute “ and 152 ”; and
- (b) in subsection (11), for “any of sections 153 to 155” substitute “ section 155 ”.



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*Environment and Safety Information (Northern Ireland) Order 1993 (S.I. 1993/3159 (N.I.14))*

- 13 In the second column of Schedule 1 to the Environment and Safety Information (Northern Ireland) Order 1993 (enforcing authorities), for “section 43(2) of the Northern Ireland Constitution Act 1973” substitute “ section 4(1) of the Northern Ireland Act 1998 ”.

*Civil Service (Management Functions) (Northern Ireland) Order 1994 (S.I. 1994/1894 (N.I.9))*

- 14 In Article 3(1) of the Civil Service (Management Functions) (Northern Ireland) Order 1994, for paragraphs (a) and (b) substitute “ which, by virtue of a prerogative order made under section 23(3) of the Northern Ireland Act 1998, is exercisable by the Department of Finance and Personnel ”.

*Olympic Symbol etc. Protection Act 1995 (c.32)*

- 15 In section 4(16) of the Olympic Symbol etc. Protection Act 1995 (definitions), in the definition of “Royal Commission”, for “by the Secretary of State in pursuance of the prerogative powers of Her Majesty delegated to him under section 7(2) of the Northern Ireland Constitution Act 1973” substitute “ by a Minister, within the meaning of the Northern Ireland Act 1998, or Northern Ireland department in pursuance of the prerogative powers of Her Majesty exercisable by the Minister or department under section 23 of that Act ”.

*Disability Discrimination Act 1995 (c.50)*

F222 16 .....

**Textual Amendments**

**F222** Sch. 13 para. 16 repealed (25.4.2000) by S.I. 2000/1110 (N.I. 2), art. 16, Sch. 2 (with art. 17); S.R. 2000/140, art. 2, Sch. Appendix

*Commissioner for Complaints (Northern Ireland) Order 1996 (S.I. 1996/1297 (N.I.7))*

- 17 In Article 9(3) of the Commissioner for Complaints (Northern Ireland) Order 1996 (matters not subject to investigation), for “section 22 of the Northern Ireland Constitution Act 1973” substitute “ section 78 of the Northern Ireland Act 1998 ”.

*Ombudsman (Northern Ireland) Order 1996 (S.I. 1996/1298 (N.I.8))*

- 18 In Article 10(3) of the Ombudsman (Northern Ireland) Order 1996 (matters not subject to investigation), for “section 22 of the Northern Ireland Constitution Act 1973” substitute “ section 78 of the Northern Ireland Act 1998 ”.

*Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I.6))*

- 19 (1) The Race Relations (Northern Ireland) Order 1997 shall be amended as follows.  
(2) In Article 2(2) (interpretation), in the definition of “the Commission” for “the Commission for Racial Equality for Northern Ireland” substitute “ the Equality Commission for Northern Ireland ”.

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- (3) Article 42(1) and (3) to (5) and Schedule 1 (establishment of Commission for Racial Equality for Northern Ireland) shall cease to have effect.

## PROSPECTIVE

*Northern Ireland (Elections) Act 1998 (c.12)*

- 20 In Schedule 1 to the Northern Ireland (Elections) Act 1998 (the Assembly), for paragraph 8 substitute—
- “8 (1) For the purposes of the law of defamation, absolute privilege shall attach to—
- (a) the making of a statement in proceedings of the Assembly; and
- (b) the publication of a statement under the Assembly’s authority.
- (2) In this paragraph “statement” has the same meaning as in the Defamation Act 1996.”

*Data Protection Act 1998 (c.29)*

- 21 (1) In paragraph 4 of Schedule 7 to the Data Protection Act 1998 (miscellaneous exceptions), for “Northern Ireland department” substitute “ Northern Ireland authority ”.
- (2) Renumber that paragraph (as so amended) as sub-paragraph (1) and after that provision as so renumbered insert—
- “(2) In this paragraph “Northern Ireland authority” means the First Minister, the deputy First Minister, a Northern Ireland Minister or a Northern Ireland department.”

## SCHEDULE 14

Section 100(1).

## TRANSITIONAL PROVISIONS AND SAVINGS

*Human rights*

- 1 In relation to any time before the <sup>M126</sup>Human Rights Act 1998 is fully in force, sections 6(2)(c), 24(1) and 71 and Schedule 10 shall have effect as if that Act were so in force.

**Commencement Information**

**I25** Sch. 14 para. 1 wholly in force at 2.12.1999; Sch. 14 para. 1 not in force at Royal Assent see s. 100(3); Sch. 14 para. 1 in force for specified purposes at 1.6.1999 by S.I. 1999/340, art. 2(5), Sch. Pt. 4; Sch. 14 para. 1 in force at 2.12.1999 insofar as not already in force by S.I. 1999/3209, art. 2, Sch.

**Marginal Citations**

M126 1998 c.42.

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### *First Minister and deputy First Minister*

- 2 Any election of the First Minister and the deputy First Minister held before the appointed day shall on and after that day have effect as if it had been held under section 16.

### *Ministerial offices*

- 3 Any determination of—
- (a) the number of Ministerial offices to be held by Northern Ireland Ministers; and
  - (b) the functions to be exercisable by the holder of each such office,
- made and approved before the appointed day shall on and after that day have effect as if it had been made and approved under section 17.

### *Northern Ireland Ministers*

- 4 Any nomination of a person to hold a Ministerial office made before the appointed day shall on and after that day have effect as if it had been made under section 18.

### *Junior Ministers*

- 5 Any of the following made and approved before the appointed day—
- (a) a determination of the number of junior Ministers to be appointed;
  - (b) a determination of the functions to be exercised by the holder of each junior Ministerial office; and
  - (c) an appointment of a junior Minister,
- shall have effect on and after that day as if it had been made and approved under section 19.

### *Department of First Minister and deputy First Minister*

- 6 Any Northern Ireland department established before the appointed day under the charge of the First Minister and deputy First Minister acting jointly shall be treated on and after that day as if it had been established by an Act of the Assembly under section 21.

### *Prerogative orders*

- 7 Any prerogative order made by the Secretary of State under the Letters Patent of Her Majesty dated 20th December 1973 before the appointed day shall on and after that day have effect as if it had been validly made under section 23(3) by the First Minister and the deputy First Minister acting jointly.

### *Agency arrangements*

- 8 Any arrangements made under section 11 of the <sup>M127</sup>Northern Ireland Constitution Act 1973 before the appointed day shall on and after that day have effect as if they had been made under section 28.

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**Marginal Citations**

M127 1973 c.36.

*Statutory committees*

- 9 (1) Any committee of the Assembly established before the appointed day to advise and assist a Northern Ireland Minister in the formulation of policy with respect to his responsibilities as a Minister shall be treated on and after that day as if it had been established by standing orders under section 29.
- (2) Any appointment of a member, or the chairman or deputy chairman, of such a committee made before the appointed day shall have effect on and after that day as if it had been made under section 29.

*Elections of members*

- 10 Any order made under section 2(5) of the <sup>M128</sup>Northern Ireland (Elections) Act 1998 before the appointed day shall on and after that day have effect, with any necessary modifications, as if it had been made under section 34(4).

**Marginal Citations**

M128 1998 c.12.

*Vacancies*

- 11 Any order made under section 3 of the <sup>M129</sup>Northern Ireland (Elections) Act 1998 before the appointed day shall on and after that day have effect, with any necessary modifications, as if it had been made under section 35.

**Marginal Citations**

M129 1998 c.12.

*Disqualification*

- 12 A person elected on 25th June 1998 shall not be disqualified from membership of the Assembly by virtue of section 36 if he was not disqualified from such membership under section 4 of the <sup>M130</sup>Northern Ireland (Elections) Act 1998.

**Marginal Citations**

M130 1998 c.12.

*Presiding Officer and deputy*

- 13 Any person appointed or elected under paragraph 3 of the Schedule to the Northern Ireland (Elections) Act 1998 who holds office immediately before the appointed

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day shall on and after that day hold office as Presiding Officer or, as the case may be, deputy Presiding Officer as if he had been elected by the Assembly under section 39.

#### *Standing orders*

- 14 Any standing orders made by the Secretary of State under paragraph 10 to the Schedule to the Northern Ireland (Elections) Act 1998 before the appointed day shall on and after that day have effect as if they had been made by the Assembly under section 41.

#### *Civic Forum*

- 15 Any such arrangements as are mentioned in subsection (1) of section 56 which are made and approved before the commencement of that section shall have effect, after that commencement, as if they had been made and approved under that section.

#### *Comptroller and Auditor General for Northern Ireland*

- 16 Any appointment made by Her Majesty under section 36(1)(d) of the <sup>M131</sup>Northern Ireland Constitution Act 1973 before the appointed day shall on and after that day have effect as if it had been an appointment made by Her Majesty on the nomination of the Assembly under section 65.

#### **Marginal Citations**

M131 1973 c.36.

#### *Social security and child support*

- 17 Any regulations made under any enactment repealed by virtue of section 87 shall have effect, with any necessary modifications as if they had been made under subsection (4) or, as the case may require, subsection (5) of that section.

#### *Certificates by Secretary of State*

- 18 Section 90 shall have effect—
- (a) in relation to any act done before the appointed day, as if the reference to section 24 were a reference to section 19 of the Northern Ireland Constitution Act 1973 so far as relating to a member of the Northern Ireland Executive or other person appointed under section 8 of that Act or a Northern Ireland department;
  - (b) in relation to any act done before the commencement of section 76, as if the reference to that section were a reference to section 19 of that Act so far as relating otherwise than as mentioned in sub-paragraph (a); and
  - (c) in relation to any such act as is mentioned in sub-paragraph (a) or (b), as if—
    - (i) the reference in subsection (1)(b) to a certificate were a reference to a certificate purporting to be signed by or on behalf of the Secretary of State and certifying that an act specified in the certificate was done for the purpose of safeguarding national security; and
    - (ii) subsection (3)(b) were omitted.

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### *Devolution issues*

- 19 In relation to any time before the first appointment of the Advocate General for Scotland, paragraphs 22, 23, 33 and 34 of Schedule 10 shall have effect as if references to him were references to the Lord Advocate.

### *Relations with Republic of Ireland*

- 20 The repeal effected by this Act of section 12 of the Northern Ireland Constitution Act 1973 shall not affect the operation of any agreement or arrangement made under that section.

### *Discrimination in legislation*

- 21 The repeals effected by this Act shall not affect the operation of sections 17 and 18 of the <sup>M132</sup>Northern Ireland Constitution Act 1973 (read with section 23 of that Act) in relation to—
- (a) Acts of the Parliament of Northern Ireland;
  - (b) Measures of the Northern Ireland Assembly established under section 1 of the <sup>M133</sup>Northern Ireland Assembly Act 1973;
  - (c) Orders in Council under Schedule 1 to the <sup>M134</sup>Northern Ireland Act 1974; and
  - (d) relevant subordinate instruments (within the meaning of section 17 of the Northern Ireland Constitution Act 1973) made before the appointed day.

#### **Marginal Citations**

**M132** 1973 c.36.  
**M133** 1973 c.17.  
**M134** 1974 c.28.

### *Discrimination by public bodies*

- 22 The repeals effected by this Act shall not affect the operation of section 19 of the Northern Ireland Constitution Act 1973 (read with section 23 of that Act)—
- (a) so far as section 19 relates to a member of the Northern Ireland Executive or other person appointed under section 8 of that Act or a Northern Ireland department, in relation to any act done before the appointed day;
  - (b) so far as section 19 relates otherwise than as mentioned in subparagraph (a), in relation to any act done before the commencement of section 76.

### *Members' Pensions*

- 23 The repeals effected by this Act shall not affect the operation of the <sup>M135</sup>Ministerial Offices Act Northern Ireland) 1952, the <sup>M136</sup>Ministerial Salaries and Members' Pensions Act Northern Ireland) 1965 or the <sup>M137</sup>Members' Pensions (Northern Ireland) Order 1976 in relation to service completed before the appointed day.

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#### Marginal Citations

M135 1952 c.15 (N.I.).

M136 1965 c.18 (N.I.).

M137 S.I. 1976/426 (N.I.8).

## SCHEDULE 15

Section 100(2).

### REPEALS

#### Commencement Information

**I26** Sch. 15 partly in force; Sch. 15 in force for specified purposes at Royal Assent see s. 101; Sch. 15 in force for further specified purposes at 1.3.1999 by S.I. 1999/340, art. 2(3), Sch. Pt. 3; Sch. 15 in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, art. 3; Sch. 15 in force for further specified purposes at 2.12.1999 by S.I. 1999/3209, art. 2, Sch.

| Chapter or Number          | Short title   | Extent of repeal   |
|----------------------------|---|--|
| 3 Edw 7 c.37.              | Irish Land Act 1903.  | Sections 27 to 42.<br>Section 47.  |
| 10 & 11 Geo 5 c.67.        | Government of Ireland Act 1920.                                       | The whole Act.   |
| 12 Geo 5 c.2 (N.I.).       | Exchequer and Audit Act (Northern Ireland) 1921.                      | Section 5.<br>Section 28(1).   |
| 14 & 15 Geo 5 c.11 (N.I.). | Ministers (Temporary Exercise of Powers) Act (Northern Ireland) 1924. | The whole Act.   |
| 10 & 11 Geo 6 c.37.        | Northern Ireland Act 1947.  | Section 8.<br>Section 9(1) and (5).<br>Section 14(1) and (2).  |
| 1 & 2 Eliz 2 c.3.          | Public Works Loans Act 1952.  | Section 6.   |
| 1 & 2 Eliz 2 c.15 (N.I.).  | Ministerial Offices Act (Northern Ireland) 1952.                      | The whole Act.   |
| 2 & 3 Eliz 2 c.33 (N.I.).  | Interpretation Act (Northern Ireland) 1954.                           | Section 13(2).<br><br>In section 46(2), in the definition of “the constitutional laws of Northern Ireland”, the words “the Government of |

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|-------------------|---|---|
|                   |   | Ireland Act 1920, and” and “amending or extending it or otherwise”.   |
| 1965 c.18 (N.I.). | Ministerial Salaries and Members’ Pensions Act (Northern Ireland) 1965. | The whole Act.  |
| 1969 c.7 (N.I.).  | Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969.  | Section 4.  |
| 1972 c.22.        | Northern Ireland (Temporary Provisions) Act 1972.                       | The whole Act.  |
| 1973 c.17.        | Northern Ireland Assembly Act 1973.                                     | The whole Act.  |
| 1973 c.36.        | Northern Ireland Constitution Act 1973.                                 | Sections 1 to 9.<br><br>Sections 11 to 32.<br>Section 33(1).<br>Section 36(1)(d).<br>Section 37(1).<br>Sections 38 to 40.<br>Schedules 1 to 5.  |
| 1973 c.69.        | Northern Ireland Constitution (Amendment) Act 1973.                     | The whole Act.  |
| 1974 c.28.        | Northern Ireland Act 1974.  | The whole Act.  |
| 1975 c.24.        | House of Commons Disqualification Act 1975.                             | In Schedule 1, in Part II, the entries relating to the Equal Opportunities Commission for Northern Ireland, the Fair Employment Commission for Northern Ireland and the Northern Ireland Disability Council; in Part III, the entry relating to the Additional Commissioner of the Equal Opportunities Commission for Northern Ireland. |
| 1975 c.25.        | Northern Ireland Assembly Disqualification Act 1975.                    | Section 5(1).<br><br>In Schedule 1, in Part II, the entries relating to the Commission for Racial Equality for Northern Ireland, the Equal Opportunities Commission for Northern Ireland, the Fair Employment   |



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|                          |   |  |
|--------------------------|---|--|
|                          |   | Commission for Northern Ireland and the Northern Ireland Disability Council; in Part III, the entries relating to the Additional Commissioner of the Commission for Racial Equality for Northern Ireland and the Additional Commissioner of the Equal Opportunities Commission for Northern Ireland. |
|                          |   | Schedule 2.  |
| 1976 c.25.               | Fair Employment (Northern Ireland) Act 1976.      | Section 1(2).<br><br>Section 58(1).<br><br>Schedule 1.<br><br>Schedule 6.  |
| S.I. 1976/426 (N.I.8).   | Members' Pensions (Northern Ireland) Order 1976.  | The whole Order.   |
| S.I. 1976/1042 (N.I.15). | Sex Discrimination (Northern Ireland) Order 1976. | In Article 2(2), the definition of "the interim period".<br><br>Article 54(2) to (4).<br><br>Schedule 3.<br><br>In Schedule 6, paragraph 2.  |
| S.I. 1979/1573 (N.I.12). | Statutory Rules (Northern Ireland) Order 1979.    | In Article 7(1), the words from "subject to" to "1974".<br><br>Article 11(4).<br><br>In Schedule 4, paragraph 14.  |
| 1981 c.35.               | Finance Act 1981.                                 | Section 137(1) and (2).  |
| S.I. 1982/713 (N.I.10).  | Probation Board (Northern Ireland) Order 1982.    | In Schedule 1, paragraph 1(2).   |
| 1982 c.38.               | Northern Ireland Act 1982.                        | The whole Act.   |
| S.I. 1984/1821 (N.I.11). | Fire Services (Northern Ireland) Order 1984.      | In Article 5(1)(f), the words "under section 12 of the Northern Ireland Constitution Act 1973".  |
| 1986 c.50.               | Social Security Act 1986.                         | In Schedule 9, paragraph 6.  |
| 1986 c.53.               | Building Societies Act 1986.                      | Section 122(2).  |
| 1986 c.56.               | Parliamentary Constituencies Act 1986.            | In Schedule 3, paragraphs 1 and 2.   |
| 1986 c.60.               | Financial Services Act 1986.                      | Section 209(2).  |

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| S.I. 1986/595 (N.I.4).   | Mental Health (Northern Ireland) Order 1986. | In Schedule 5, in Part II the amendment of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965.  |
| 1987 c.22.               | Banking Act 1987.                            | Section 109(2).   |
| 1987 c.43.               | Consumer Protection Act 1987.                | Section 49(2).  |
| S.I. 1987/460 (N.I.5).   | Audit (Northern Ireland) Order 1987.         | In Article 2(2), the definition of "the interim period".<br>Article 4(2), (6) and (7).<br>Article 6(6).<br>Article 11(2) and (3).<br>In Schedule 1, paragraph 4(3).<br>In Schedule 2, paragraph 4(3). |
| S.I. 1987/2203 (N.I.22). | Adoption (Northern Ireland) Order 1987.      | In Schedule 4, paragraph 1.   |
| 1989 c.6.                | Official Secrets Act 1989.                   | Section 12(1)(b).   |
| 1989 c.32.               | Fair Employment (Northern Ireland) Act 1989. | In section 21(1), the definition of "the Commission".<br>In Schedule 2, paragraphs 2, 5, 6 and 22 to 28.  |
| 1989 c.40.               | Companies Act 1989.                          | In section 213(7), the words from "Subject to any Order" to the end.  |
| 1990 c.37.               | Human Fertilisation and Embryology Act 1990. | Section 48(2).  |
| 1990 c.42.               | Broadcasting Act 1990.                       | In Schedule 20, paragraph 19.   |
| 1990 c.43.               | Environmental Protection Act 1990.           | Section 3(8).<br>Section 153(5).  |
| 1991 c.48.               | Child Support Act 1991.                      | Section 23(4) and (5).<br>Section 56(2) to (4).<br>In Schedule 5, paragraph 2.  |
| S.I. 1991/2628 (N.I.23). | Child Support (Northern Ireland) Order 1991. | Article 49(2) and (3).  |
| 1992 c.5.                | Social Security Administration Act 1992.     | Sections 177 and 178.   |

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|                          |   | Schedule 8.   |
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| 1992 c.8.                | Social Security Administration (Northern Ireland) Act 1992. | Sections 153 and 154.<br><br>In section 167(1), the definition of “Joint Authority”.  |
| 1992 c.40.               | Friendly Societies Act 1992.                                | Section 124(2).   |
| 1993 c.36.               | Criminal Justice Act 1993.                                  | Section 79(11).   |
| 1993 c.39.               | National Lottery etc. Act 1993.                             | Section 63(2).  |
| 1993 c.48.               | Pension Schemes Act 1993.                                   | In section 167(2), the words “section 177 (co-ordination with Northern Ireland)”.<br><br>Section 187.   |
| 1993 c.49.               | Pension Schemes (Northern Ireland) Act 1993.                | In section 163(2), the words “section 153 (co-ordination with Great Britain)”.  |
| S.I. 1993/1252 (N.I.5).  | Financial Provisions (Northern Ireland) Order 1993.         | Article 8(6A).  |
| 1994 c.26.               | Trade Marks Act 1994.                                       | In Schedule 4, the entry in paragraph 1(2) relating to the Northern Ireland Constitution Act 1973.  |
| 1995 c.34.               | Child Support Act 1995.                                     | Section 29(2) to (4).   |
| S.I. 1995/2702 (N.I.13). | Child Support (Northern Ireland) Order 1995.                | Article 20.   |
| 1996 c.11.               | Northern Ireland (Entry to Negotiations, etc.) Act 1996.    | The whole Act.  |
| 1996 c.22.               | Northern Ireland (Emergency Provisions) Act 1996.           | In Schedule 6, paragraph 1.   |
| S.I. 1996/1297 (N.I.7).  | Commissioner for Complaints (Northern Ireland) Order 1996.  | Article 23(1).<br><br>In Schedule 2, the entries relating to the Equal Opportunities Commission for Northern Ireland, the Fair Employment Commission for Northern Ireland and the Commission for Racial Equality for Northern Ireland.<br><br>Schedule 4. |

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| S.I. 1996/1298 (N.I.8). | Ombudsman (Northern Ireland) Order 1996.            | Article 3(3).<br><br>In Schedule 5, the amendments of sections 19 to 22 of the Northern Ireland Constitution Act 1973 and the Northern Ireland Act 1974. |
| S.I. 1997/869 (N.I.6).  | Race Relations (Northern Ireland) Order 1997.       | Article 42(1) and (3) to (5).<br><br>Schedule 1.<br>In Schedule 2, paragraphs 1 and 7.   |
| 1998 c.12.              | Northern Ireland (Elections) Act 1998.              | The whole Act.   |
| 1998 c.32.              | Police (Northern Ireland) Act 1998.                 | Section 1(2).<br><br>Section 18(4).  |
| 1998 c.47.              | Northern Ireland Act 1998.                          | In Schedule 13, paragraph 18.  |
| 1998 c.48.              | Registration of Political Parties Act 1998.         | In section 2(2)(e) the word “New”.   |
| S.I. 1998/749 (N.I.4).  | Financial Provisions (Northern Ireland) Order 1998. | Article 7.   |

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