



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### 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>M1</sup>Government of Ireland Act 1920;
  - (b) section 1(3) of the <sup>M2</sup>Northern Ireland (Temporary Provisions) Act 1972;
  - (c) section 38 or 39 of the <sup>M3</sup>Northern Ireland Constitution Act 1973; or
  - (d) Schedule 1 to the <sup>M4</sup>Northern Ireland Act 1974.
- (2) The laws continued by section 61 of the <sup>M5</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.

*Status: Point in time view as at 11/03/2009.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part IX. (See end of Document for details)*

#### Commencement Information

- II** 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

- M1** 1920 c. 67.  
**M2** 1972 c.22.  
**M3** 1973 c.36.  
**M4** 1974 c.28.  
**M5** 1920 c. 67.

### [<sup>F1</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.]

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### Textual Amendments

- F1** 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 [F24(6),][F331(2),] 34(4), 35(1), 55, [F469C(12),] 75(3)(a) or (d) or 80 or Schedule 1—

- (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.

[F5(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>M6</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

- F2** 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

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- F3** 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)
- F4** 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)
- F5** 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)**

- C1** 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))
- C2** 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))
- C3** 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))
- C4** 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))
- C5** 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**

- M6** 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>M7</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;

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“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;

“Judicial Committee” means the Judicial Committee of the Privy Council;

“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;

“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>M8</sup>Northern Ireland (Temporary Provisions) Act 1972;
- (d) Measures of the Northern Ireland Assembly established under section 1 of the <sup>M9</sup>Northern Ireland Assembly Act 1973;
- (e) Orders in Council under Schedule 1 to the <sup>M10</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 [F6]16C(14)];

“political opinion” and “religious belief” shall be construed in accordance with [F7]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);

[F8]“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>M11</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>M12</sup>Agricultural Wages (Regulation) (Northern Ireland) Order 1977;
  - (b) the <sup>M13</sup>Employment Rights (Northern Ireland) Order 1996; or
  - (c) the <sup>M14</sup>Industrial Tribunals (Northern Ireland) Order 1996,

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which is amended or applied by or under the <sup>M15</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.
- (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

- F6** 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](#)
- F7** Words substituted (1.3.1999) by S.I. 1998/3162 (N.I. 21), [art. 105\(1\)](#), [Sch. 3](#); S.R. 1999/81, [art. 3\(1\)](#)
- F8** 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)

- C6** S. 98(2)(3) applied (prosp.) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 247\(9\)](#), 263(7)
- C7** S. 98(2)(3) applied (prosp.) by [Civil Partnership Act 2004 \(c. 33\)](#), [ss. 247\(9\)](#), 263(7)

#### Marginal Citations

- M7** [1998 c. 42.](#)
- M8** [1972 c.22.](#)

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*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part IX. (See end of Document for details)*

- M9** 1973 c.17.
- M10** 1974 c.28.
- M11** 1978 c.30.
- M12** S.I. 1977/2151 (N.I.22).
- M13** S.I. 1996/1919 (N.I.16).
- M14** S.I. 1996/1921 (N.I.18).
- M15** 1998 c.39.

## 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

- I2** [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>M16</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

- I3** [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

- M16** 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;

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- (c) in Schedule 15, the repeal of section 31(4) to (6) of the <sup>M17</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**

- P1** [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](#)

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#### **Marginal Citations**

- M17** [1973 c.36.](#)



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