

*Status: Point in time view as at 08/02/2022.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, SCHEDULE 4A. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4A

Section 21A

#### DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

##### Textual Amendments

- F1** 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>F2</sup>BY VIRTUE OF SECTION 21A(3)]

##### Textual Amendments

- F2** 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).

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*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
  - (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,

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- 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.
- (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.

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- (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).

<sup>F3</sup>(12) . . . . .

(13) In this paragraph, a reference to a period of exclusion <sup>F4</sup>... is, in the case of a period of exclusion <sup>F4</sup>... 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.

**Textual Amendments**

**F3** Sch. 4A para. 3(12) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(i)(aa)

**F4** Words in Sch. 4A para. 3(13) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(i)(bb)

**[<sup>F5</sup>PART 1A**

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

**Textual Amendments**

**F5** 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).

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### *Modification of section 16A*

- [<sup>F6</sup>3B Section 16A(3) has 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 1A of Schedule 4A) shall be filled by applying paragraph 3D(4) to (8) of that Schedule; and
  - (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).”]

#### **Textual Amendments**

- F6** Sch. 4A para. 3B substituted (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\)](#), **ss. 8(2)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

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

- 3C [ Section 18 (Northern Ireland Ministers) shall not apply in relation to—
- <sup>F7</sup>(1)] (a) the relevant Minister, or
- (b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),
- and paragraph 3D shall apply instead.

[ But the reference to Ministerial offices in subsection (5) of that section (in the <sup>F8</sup>(2) definition of M) shall be taken to include the relevant Ministerial office.]

#### **Textual Amendments**

- F7** Sch. 4A para. 3C renumbered as Sch. 4A para. 3C(1) (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\)](#), **ss. 8(3)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F8** Sch. 4A para. 3C(2) inserted (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\)](#), **ss. 8(3)(b)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

### *Provisions relating to relevant Minister*

- 3D [ Where—
- <sup>F9</sup>(A1) (a) an Assembly is elected—
- (i) at a poll the date for which is proposed under section 32(3B), or
  - (ii) following the issue of a certificate under section 18(A2),
- (b) the period of 24 weeks beginning with the day on which an Assembly first meets expires without the offices mentioned in section 16A(3) having been filled, or
- (c) the period of 48 weeks beginning with the day on which a vacancy arises in the offices of First Minister and deputy First Minister expires without those offices having been filled,
- the relevant Minister shall cease to hold office (and the relevant Ministerial office shall remain vacant until next filled by virtue of section 16A).]

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- (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);
  - <sup>F10</sup>(c) .....
  - (d) a period of exclusion under section 30(2) <sup>F11</sup>... comes to an end <sup>F11</sup>...;
  - (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 [<sup>F12</sup>section 16B(3) to (7) is applied in relation to the offices of First Minister and deputy First Minister but before] 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.
- [ But a member of the Assembly who is a member of a political party may not be
- <sup>F13</sup>(4A) nominated unless the nominating officer of the party consents to the nomination within a period specified in standing orders.]
- (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.
- (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.

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- (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,
    - [ there is an Assembly election at which the Minister is not returned as a member,]<sup>F14</sup>(aa)
  - (b) the Minister ceases to be a member of the Assembly otherwise than by virtue of a dissolution,<sup>F15</sup> ...
    - [ where consent to the Minister's nomination was required under sub-paragraph (4A), the Minister is dismissed by the nominating officer of the party and the Presiding Officer is notified of the dismissal, or]<sup>F16</sup>(ba)
  - (c) [<sup>F17</sup>where consent to the Minister's nomination was not required under sub-paragraph (4A),] 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 [<sup>F18</sup>(A1) or] (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).
- <sup>F19</sup>(16) .....
- (17) In this paragraph, a reference to a period of exclusion <sup>F20</sup>... is, in the case of a period of exclusion <sup>F20</sup>... which has been extended, a reference to that period as extended.]
- [ In this paragraph and paragraph 3E “nominating officer” has the same meaning as <sup>F21</sup>(18) in section 18.]

#### Textual Amendments

- F9** Sch. 4A para. 3D(A1) inserted (8.2.2022) by [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022 \(c. 2\), ss. 2\(5\)\(a\), 9](#) (with s. 4(2)(3))
- F10** Sch. 4A para. 3D(2)(c) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(ii)(aa)
- F11** Words in Sch. 4A para. 3D(2)(d) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(ii)(bb)

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- F12** Words in Sch. 4A para. 3D(3) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(5)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F13** Sch. 4A para. 3D(4A) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(6)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F14** Sch. 4A para. 3D(11)(aa) inserted (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 2(5)(b)**, 9 (with s. 4(2)(3))
- F15** Word in Sch. 4A para. 3D(11)(b) omitted (27.9.2014) by virtue of Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F16** Sch. 4A para. 3D(11)(ba) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F17** Words in Sch. 4A para. 3D(11)(c) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(b)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F18** Words in Sch. 4A para. 3D(14) inserted (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 2(5)(c)**, 9 (with s. 4(2)(3))
- F19** Sch. 4A para. 3D(16) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(ii)(cc)
- F20** Words in Sch. 4A para. 3D(17) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(ii)(dd)
- F21** Sch. 4A para. 3D(18) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(8)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

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

- C1** Sch. 4A para. 3D(1) excluded (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), s. 11(2), **Sch. 1 para. 2(1)**
- C2** Sch. 4A para. 3D(2)(a) excluded (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), s. 11(2), **Sch. 1 para. 2(1)**

*Reappointment of other Northern Ireland Ministers in certain cases*

- [<sup>F22</sup>3E (1) Where the first condition or the second condition is met—
- (a) all the Northern Ireland Ministers other than the relevant Minister cease to hold office, and
- (b) those Ministerial offices must be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (2) The first condition is that—
- (a) the relevant Minister ceased to hold office by virtue of paragraph 3D(1)(a), and the office was filled by virtue of paragraph 3D(1)(b),
- (b) paragraph 3D(1) applied because a resolution was passed under section 30(2) which caused no Ministerial office other than the relevant Ministerial office to become vacant, and
- (c) as a result of the events mentioned in paragraph (a) the total number of Ministerial offices held by members of a political party increased or decreased.
- (3) The second condition is that—
- (a) the relevant Minister (“the former Minister”) ceased to hold office otherwise than by virtue of paragraph 3D(1)(a), and the office was filled by virtue of paragraph 3D(14), and
- (b) as a result of the events mentioned in paragraph (a) the total number of Ministerial offices held by members of a political party increased or decreased.



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- (4) But the second condition is not met where—
- (a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under paragraph 3D(11)(ba),
  - (b) immediately before the office was filled there was at least one eligible member of the nominating officer's political party, and
  - (c) each such eligible member failed to fill the office for one or other of the following reasons.
- (5) Those reasons are—
- (a) that one or more members of the Assembly sought to nominate the eligible member for the office, but consent to the nomination was not given by the nominating officer in accordance with paragraph 3D(4A);
  - (b) that the eligible member was nominated for the office but did not take it up within the period specified in standing orders under paragraph 3D(7)(a).
- (6) References in this paragraph to an eligible member of a political party are to a member of that party who is also a member of the Assembly, but do not include the former Minister.]

#### Textual Amendments

- F22** Sch. 4A para. 3E inserted (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\)](#), ss. 9, 28(7); S.I. 2014/2613, art. 2(1)(b)

## 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—
- (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).

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*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.
- (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).

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- (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
  - (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

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- (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).
- <sup>F23</sup>(12) .....
- (13) In this paragraph, a reference to a period of exclusion <sup>F24</sup>... is, in the case of a period of exclusion <sup>F24</sup>... 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.

#### Textual Amendments

**F23** Sch. 4A para. 7(12) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(iii)(aa)

**F24** Words in Sch. 4A para. 7(13) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(iii)(bb)

### 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
- (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

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- 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;
- (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)—

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- (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.
- (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.

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- (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—
- (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—

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- (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).

<sup>F25</sup>(13) .....

(14) In this paragraph, a reference to a period of exclusion <sup>F26</sup>... is, in the case of a period of exclusion <sup>F26</sup>... 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.

#### Textual Amendments

**F25** Sch. 4A para. 11(13) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(iv)(aa)

**F26** Words in Sch. 4A para. 11(14) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(iv)(bb)

## 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.
- (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



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- (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
  - (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.

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- (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.
- (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;

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- (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)**

- C3** 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, no member of that party may be nominated under paragraph 11E(4)(b).
- <sup>F27</sup>(3) .....
- (4) In this paragraph, a reference to a period of exclusion <sup>F28</sup>... is, in the case of a period of exclusion <sup>F28</sup>... which has been extended, a reference to that period as extended.

**Textual Amendments**

- F27** Sch. 4A para. 11F(3) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(v)(aa)
- F28** Words in Sch. 4A para. 11F(4) omitted (1.4.2011) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(Cessation of Provisions\) Order 2011 \(S.I. 2011/978\)](#), arts. 1(2), 5(k)(v)(bb)

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*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”;
- 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,

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an Act of the Assembly which makes provision of the kind mentioned in section 21A(3), [<sup>F29</sup>(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.

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**Textual Amendments**

**F29** 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>F30</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).]

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**Textual Amendments**

**F30** Sch. 4A para. 13 inserted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 1, 5, [Sch. 1 para. 4\(5\)](#)

**Status:**

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**Changes to legislation:**

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