



# Northern Ireland (Monitoring Commission etc.) Act 2003

## 2003 CHAPTER 25

### *General*

#### **10 Secretary of State's directions: procedure etc.**

(1) After section 95 of the Northern Ireland Act 1998 (c. 47) there is inserted—

#### **“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).

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- (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.”
- (2) In section 18 of that Act (which provides for the filling of Ministerial offices), after subsection (12A) there is inserted—
- “(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).”
- (3) After Schedule 12 to that Act there is inserted—

“SCHEDULE  
12A

Section 95A(10)

EFFECT OF APPLICATION OF SECTION 95A(6) OR (7)

*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—

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- (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;

“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 16(8) shall not apply by reason of the operation of sub-paragraph (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

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- (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), section 16(7) shall not apply by reason of the operation of sub-paragraph (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 the six weeks 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 16 for the purpose of filling them.
- (4) If those vacancies are not filled under that sub-paragraph, the proceedings for an election under section 16 for the purpose of filling them shall be started afresh with the period of six weeks mentioned in section 16(8) being taken for the purposes of this Act to begin with the relevant time.

*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—
- (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—

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- (a) anything done in reliance on the direction while it had effect;
- (b) the making of a new direction.”

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