

NORTHERN IRELAND (ST ANDREWS AGREEMENT) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 1: Preparations for the Restoration of Devolved Government

Section 1: Preparations for the restoration of devolved government

24. **Section 1** provides for the creation of a new “Transitional Assembly”. Section 1(1)(a) provides that the members of the Transitional Assembly will be the members of the Northern Ireland Assembly (which is currently suspended under the Northern Ireland Act 2000). Section 1(1)(b) makes clear that the purpose of the Transitional Assembly is to take part in preparations for the restoration of devolved government in Northern Ireland, in line with the strategy set out in the St Andrews Agreement.
25. Subsection (2) of section 1 introduces Schedule 1 to the Act, which makes further provision in relation to the Transitional Assembly. Subsection (3) states that the Act does not alter the operation of section 1 of the Northern Ireland Act 2000 (“the 2000 Act”). This means that direct rule remains in force until the making of a restoration order. Limited exceptions to this are set out in subsection (4), which refers, in particular, to nomination of First and deputy First Ministers to the Northern Ireland Assembly, and full restoration of devolved government and the repeal of the 2000 Act under Schedules 2 and 4.

Section 2: Compliance or non-compliance with the St Andrews Agreement timetable

26. **Section 2** makes provision for bringing into force Schedules 2 to 4. Schedules 2 and 3 respectively provide for, amongst other things, the restoration, or alternatively, dissolution of the Northern Ireland Assembly. Under subsection (1), if, at any time before 25 March 2007, the Secretary of State considers that there is no reasonable prospect that an Executive will be formed on 26 March 2007, he may make an order bringing Schedule 3 to the Act into force (which would in effect provide for the dissolution of the Assembly and the indefinite postponement of Assembly elections).
27. If the Secretary of State does not make an order under subsection (1) before 25 March 2007, subsection (2) requires him to make a restoration order (under section 2(2) of the 2000 Act), and brings Schedule 2 into force on 26 March 2007. Schedule 4 – which provides for the repeal of the 2000 Act – will come into force on 28 March 2007 so long as an Executive is formed on 26 March 2007.
28. Subsections (3) and (4) provide for a scenario where the Secretary of State has made a restoration order, but it appears to him that not all of the Ministerial offices of the Northern Ireland Executive have been filled by the end of 26 March 2007. In these circumstances, the Secretary of State must make an order under the 2000 Act revoking

These notes refer to the Northern Ireland (St Andrews Agreement) Act 2006 (c.53) which received Royal Assent on 22 November 2006

the restoration order and this must come into force on 28 March 2007, at the same time as Schedule 3.

Section 3: Next Northern Ireland Assembly election to be in March 2007 etc

29. **Section 3** makes provision for the election of the next Assembly. It specifies that the current Assembly (i.e. that elected on 26 November 2003) should be dissolved on 30 January 2007 and sets the date of the poll for the election to the next Assembly as 7 March 2007.
30. Subsections (2) and (3) disapply Article 7 of the **Northern Ireland Assembly (Elections) Order 2001** (“the Elections Order”) (S.I. 2001/2599). The Elections Order makes provision for cases where the Presiding Officer of the Assembly notifies the Chief Electoral Officer (“the CEO”) of a vacancy in the membership of the Assembly, or a court notifies the CEO of a successful challenge to the election of a person to the Assembly. Where the CEO receives such a notification, Article 7 would normally require him to call a by-election for the vacant seat. This requirement is disappplied by section 3 in respect of any vacancy which exists between the passing of the Act (including any vacancy that has arisen before the passing of this Act) and the date of the next Assembly election. This affects the Transitional Assembly membership because of the effect of section 1(1)(a).

Section 4: Remuneration of members of the Northern Ireland Assembly

31. This section authorises the payment of salaries and allowances to former Members of the Assembly after it is dissolved in January 2007 and before the March 2007 election and the payment of salaries and allowances to members elected in March 2007.
32. Specifically, subsection (2) enables provisions to be made for former Members to receive salaries and allowances up to the last nomination day for the March 2007 election, and, if nominated, up to the end of the day of the poll for that election.
33. Also, subsections (3) and (4) ensure that members of the Assembly who are elected in March 2007 can receive their salaries from the date (following the election) on which they take their seats in the Transitional Assembly.