



# Justice and Security (Northern Ireland) Act 2007

## 2007 CHAPTER 6

### *Miscellaneous*

#### **43 Accredited community-based restorative justice schemes**

- (1) The Secretary of State shall maintain a register of schemes that appear to him—
  - (a) to be community-based restorative justice schemes, and
  - (b) to meet requirements determined and published by him.
- (2) The requirements shall include a requirement about cooperation with the Chief Inspector of Criminal Justice in Northern Ireland.
- (3) The Secretary of State shall add a scheme to the register if—
  - (a) a person applies for the scheme to be added, and
  - (b) the Secretary of State thinks that the scheme is a community-based restorative justice scheme which meets the requirements.
- (4) The Secretary of State may remove a scheme from the register if, having considered any report about the scheme made by the Chief Inspector, he thinks that—
  - (a) it is not a community-based restorative justice scheme, or
  - (b) it does not meet the requirements.
- (5) The Chief Inspector may inspect a scheme which is registered or which is the subject of an application for registration; and—
  - (a) he shall from time to time make a report to the Secretary of State on inspections carried out by him by virtue of this section, and
  - (b) section 49(2) to (4) of the Justice (Northern Ireland) Act 2002 (c. 26) (laying of Chief Inspector's reports before Parliament etc) shall apply in relation to the report.
- (6) The Secretary of State shall make arrangements for inspection of the register by the public.

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*Changes to legislation: There are currently no known outstanding effects for the Justice and Security (Northern Ireland) Act 2007, Cross Heading: Miscellaneous. (See end of Document for details)*

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#### **44 Northern Ireland department with policing and justice functions**

(1) In section 17 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), the inserted section 21A of the Northern Ireland Act 1998 (c. 47) (Northern Ireland department with policing and justice functions) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(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), (4), (5) or (5A).”

(3) After subsection (5) insert—

“(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.”

(4) In subsection (6)—

- (a) for “and (5)” substitute “, (5) and (5A) ”;
- (b) at the end insert “, or by Order in Council under subsection (7C) ”.

(5) After subsection (7) insert—

“(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).”

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(6) After section 21A of the Northern Ireland Act 1998 (c. 47) insert—

**“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 and to make provision of the kind mentioned in section 21A(5A); 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).
- (5) In this section “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

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(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.”

(7) After section 21B of the Northern Ireland Act 1998 (c. 47) insert—

**“21C Section 21A(5A) and (7C): power of Assembly to secure retention or abolition of deputy Ministerial office**

(1) This section applies if a new Northern Ireland department is established—

- (a) by an Act of the Assembly which makes provision of the kind mentioned in section 21A(5A); 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—

- (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.

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- (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.”
- (8) Schedule 5 (Northern Ireland department with policing and justice functions) shall have effect.

#### **45 Chief Inspector of Criminal Justice**

- (1) The Justice (Northern Ireland) Act 2002 (c. 26) shall be amended as follows.
- (2) In section 46(1) (Chief Inspector of Criminal Justice in Northern Ireland: organisations to be inspected)—
- (a) after paragraph (e) insert—
    - “(ea) the Life Sentence Review Commissioners,” and
  - (b) after paragraph (h) insert—
    - “(ha) the Northern Ireland Court Service,
    - (hb) the Northern Ireland Legal Services Commission,”.
- (3) In section 47(1) (Chief Inspector: programme of inspections) after “Secretary of State” insert “, the Lord Chancellor ”.
- (4) In section 47(2)—
- (a) after paragraph (a) insert—
    - “(aa) the Lord Chancellor,” and
  - (b) renumber the paragraph (aa) inserted by Schedule 7 to the 2002 Act as paragraph (ab).
- (5) After section 47(5) insert—
- “(5A) The Secretary of State may not require the Chief Inspector to carry out an inspection or review under subsection (3) or (4) relating (wholly or partly)

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to the Northern Ireland Court Service or the Northern Ireland Legal Services Commission without the consent of the Lord Chancellor.

(5B) Before carrying out an inspection or review under subsection (3) or (4) relating (wholly or partly) to the Northern Ireland Court Service or the Northern Ireland Legal Services Commission the Chief Inspector must consult the Lord Chancellor.”

(6) After section 47(6) insert—

“(6A) The Chief Inspector may not inspect persons—  
(a) making judicial decisions, or  
(b) exercising judicial discretion.”

(7) At the end of section 49 (reports) add—

“(6) If a report relates (wholly or partly) to the Northern Ireland Court Service or the Northern Ireland Legal Services Commission, the Chief Inspector must send a copy of it to the Lord Chancellor.”

(8) The amendments in subsection (2) above are without prejudice to the power in section 46(6) of the Justice (Northern Ireland) Act 2002 (c. 26).

#### **46 Free legal aid in magistrates' courts**

In Article 28 of the Legal Aid, Advice and Assistance (Northern Ireland) Order 1981 (S.I. 1981/228 (N.I. 8)) (free legal aid in the magistrates' court), after paragraph (2) insert—

“(2A) The power conferred by paragraph (1) to grant a criminal aid certificate includes power to grant a certificate for a limited period, for the purposes of specified proceedings only or for the purposes of limited aspects of proceedings, and to vary or remove any limitation imposed by a criminal aid certificate.”

#### **47 Altering title of resident magistrate**

(1) Section 102 of the Courts Act 2003 (c. 39) (power to alter judicial titles: Northern Ireland) is amended as follows.

(2) In subsection (1)(a), after “county courts” insert “ or magistrates' courts ”.

(3) In subsection (2)—

- (a) after the entry for “Deputy judge of the county court” insert— “ Deputy resident magistrate ”;
- (b) after the entry for “Presiding judge for the county courts” insert— “ Presiding resident magistrate ”;
- (c) at the end of the list insert— “ Resident magistrate ”.

#### **48 Private Security Industry**

(1) This section—

- (a) establishes interim arrangements for regulating private security services in Northern Ireland following the expiry of section 106 of, and Schedule 13 to, the Terrorism Act 2000 (c. 11) (subsection (2) and Schedule 6), and

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- (b) provides for the eventual regulation of those services under the Private Security Industry Act 2001 (c. 12) (subsections (3) to (5)).
- (2) Schedule 6 (which regulates the private security industry in Northern Ireland until repeal in accordance with subsection (4)(a) below) shall have effect.
- (3) For section 26(3) and (4) of the Private Security Industry Act 2001 (extent) substitute—
  - “(3) This Act extends to—
    - (a) England and Wales,
    - (b) Scotland, and
    - (c) Northern Ireland.”
- (4) An order under section 3(3) of the Private Security Industry Act 2001 (conduct prohibited without a licence) designating an activity in respect of Northern Ireland—
  - (a) shall include provision repealing Schedule 6 to this Act in so far as it applies to that activity, and
  - (b) may include transitional provision or savings.
- (5) The amendments of that Act in section 49 below shall have effect.
- (6) This section and section 49 shall come into force in accordance with provision made by the Secretary of State by order; and an order—
  - (a) shall be made by statutory instrument,
  - (b) may make provision generally or only for specified purposes,
  - (c) may make different provision for different purposes, and
  - (d) may include incidental, consequential or transitional provision.
- (7) Transitional provision under or by virtue of this section may, in particular—
  - (a) provide for a licence issued under one provision to have effect, subject to any specified modifications, as if issued under another;
  - (b) provide for applications under or by virtue of a provision to be made in advance of its coming into force.

#### Commencement Information

- II** S. 48 wholly in force at 8.3.2009; s. 48 not in force at Royal Assent see s 53(4); s. 48(1)(2)(6)(7) in force at 1.8.2007 by S.I. 2007/2045, art. 2(3)(p); s. 48(3)-(5) in force at 8.3.2009 by S.I. 2009/446, art. 2(2)(a)

#### 49 Amendments of the Private Security Industry Act 2001

- (1) This section sets out the amendments of the Private Security Industry Act 2001 referred to in section 48(5) above.
- (2) At the end of section 11 (licensing appeals) add—
  - “(7) In the application of this section to Northern Ireland a reference to the Crown Court shall be taken as a reference to a county court.”
- (3) In section 13(8) (local authority licensing) after “to Scotland” insert “ or Northern Ireland ”.

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- (4) In section 15(1)(a) (approvals) for “in England and Wales or in Scotland” substitute “in the United Kingdom”.
- (5) At the end of section 18 (approval appeals) add—
- “(6) In the application of this section to Northern Ireland a reference to the Crown Court shall be taken as a reference to a county court.”
- (6) At the end of section 25 (interpretation) add—
- “(3) In the application of this section to Northern Ireland, a reference to an Act that does not extend there shall be taken as a reference to the equivalent (or nearest equivalent) legislation that does.”
- (7) In Schedule 2 (controlled activities) after paragraph 4(4A) insert—
- “(4B) This paragraph does not apply to any activities, of a person who is a barrister-at-law or solicitor in Northern Ireland, which are carried out for the purposes of the provision of legal services—
- (a) by him;
  - (b) by any firm of which he is a partner or by which he is employed;
  - (c) by any body corporate of which he is a director or member or by which he is employed.”



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