

JUSTICE AND SECURITY (NORTHERN IRELAND) ACT 2007

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Supplemental

Schedule 5: Northern Ireland department with policing and justice functions

143. Schedule 5 to the Act inserts an additional Part 3A into Schedule 4A to the Northern Ireland Act 1998, and sets out the detail of the new model provided for in section 44. The provisions will only have effect if a Northern Ireland department with policing and justice functions using this model is set up either by an Assembly Act or by an Order in Council.
144. *Paragraph 11B* of new Part 3A modifies the normal arrangements set out in section 16A of the Northern Ireland Act 1998 for appointing the First and deputy First Ministers and Northern Ireland Ministers following an Assembly election. This ensures that the Minister and deputy Minister of the new department for policing and justice are appointed after the First and deputy First Minister, but before the other Northern Ireland Ministers. This is needed to ensure that the relevant Ministerial office is counted for the purposes of the d'Hondt formula for allocating ministerial posts. (Section 16A of the Northern Ireland Act 1998 was inserted by section 8 of the Northern Ireland (St Andrews Agreement) Act 2006.)
145. *Paragraph 11C* provides for a modification of the d'Hondt process which is set out in section 18 of the Northern Ireland Act 1998 so that, where a party is entitled to two or more Ministerial offices under d'Hondt, the new Ministerial office will count as the party's second, rather than its first, choice of office.
146. *Paragraph 11D* ensures that the deputy Minister (who will not be a member of the Executive) is not counted as holding a Ministerial office for d'Hondt purposes. It also specifies that the functions of the deputy Minister will be determined by the Minister and deputy Minister acting jointly, after consultation with the First Minister and deputy First Minister.
147. *Paragraph 11E* sets out the arrangements for electing the Minister and deputy Minister. Any member of the Assembly may stand for election, provided they belong to one of the two largest political designations, they are nominated by another member, and their party's nominating officer agrees. The Minister and deputy Minister must come from different designations; and both must be elected with cross community support on a 50:50:50 basis. Once elected they must affirm the pledge of office before taking up post. The two Ministers stand for election individually, so if one ceases to hold office, the other may remain in post. The exception to this is in circumstances where a new Minister comes from the different designation from his predecessor, necessitating a change in the designation of the deputy Minister as well.

*These notes refer to the Justice and Security (Northern Ireland)
Act 2007 (c.6) which received Royal Assent on 24 May 2007*

148. *Paragraph 11F* provides that, as with other models and other Ministries, the First Minister and deputy First Minister are not precluded from holding the office of Minister or deputy Minister of the new department by virtue of their being First or deputy First Minister. It also provides that candidates for Minister or deputy Minister may not come from parties excluded by the Assembly or by the Secretary of State.
149. *Paragraph 11G* provides that where a new Minister comes from a different political party from his predecessor and thus unbalances the Executive, the d'Hondt process will be run anew. The exception, again as with other models, is where the original party refused to agree the nomination of a new candidate or a successful candidate refused to affirm the pledge of office.