



Northern Ireland (Executive Formation etc) Act 2022

2022 CHAPTER 48

Exercise of departmental functions

3 Exercise of departmental functions

(1) The absence of Northern Ireland Ministers does not prevent a senior officer of a Northern Ireland department from exercising a function of the department during ^[F1]the current period in which there is no Executive] if the officer is satisfied that it is in the public interest to exercise the function during that period.

[F2](2) In this section “the current period in which there is no Executive” means the period—
(a) beginning with 6 December 2022 (the day on which this Act was passed), and
(b) ending when an Executive is next formed.]

(3) The fact that a matter connected with the exercise of a function by a Northern Ireland department has not been discussed and agreed by the Executive Committee of the Northern Ireland Assembly is not to be treated as preventing the exercise of that function as mentioned in [subsection \(1\)](#).

(4) The Secretary of State must publish guidance about the exercise of functions by a senior officer of a Northern Ireland department in reliance on this section, including guidance as to the principles to be taken into account in deciding whether or not to exercise a function.

(5) Senior officers of Northern Ireland departments must have regard to that guidance.

(6) Before publishing guidance under [subsection \(4\)](#) the Secretary of State must have regard to any representations made by members of the Northern Ireland Assembly.

Textual Amendments

F1 Words in [s. 3\(1\)](#) substituted (24.5.2023) by [Northern Ireland \(Interim Arrangements\) Act 2023 \(c. 21\)](#), [ss. 1\(a\)](#), 6

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland (Executive Formation etc) Act 2022, Cross Heading: Exercise of departmental functions. (See end of Document for details)

F2 S. 3(2) substituted (24.5.2023) by Northern Ireland (Interim Arrangements) Act 2023 (c. 21), ss. 1(b), 6

Commencement Information

I1 S. 3 in force at Royal Assent, see s. 14(2)

4 Exercise of departmental functions before this Act is passed

- (1) The absence of Northern Ireland Ministers is not to be treated as having prevented any senior officer of a Northern Ireland department from exercising functions of the department during the period beginning with 28 October 2022 and ending when this Act is passed.
- (2) Subsection (1) does not apply in relation to the exercise of a function if—
 - (a) proceedings begun, but not finally decided, before this Act is passed involve a challenge to the validity of that exercise of the function, and
 - (b) the application of that subsection would affect the outcome of the proceedings, but nothing in this subsection prevents the re-exercise of the function in the same way in reliance on section 3(1).

Commencement Information

I2 S. 4 in force at Royal Assent, see s. 14(2)

5 Exercise of departmental functions: supplementary

- (1) Sections 3 and 4 have effect despite anything in the Northern Ireland Act 1998, the Departments (Northern Ireland) Order 1999 (S.I. 1999/283 (N.I. 1)) or any other enactment or rule of law that would prevent a senior officer of a Northern Ireland department from exercising departmental functions in the absence of Northern Ireland Ministers.
- (2) No inference is to be drawn from sections 3 and 4 or this section as to whether or not a senior officer of a Northern Ireland department would otherwise have been prevented from exercising departmental functions.

Commencement Information

I3 S. 5 in force at Royal Assent, see s. 14(2)

Changes to legislation:

There are currently no known outstanding effects for the Northern Ireland (Executive Formation etc) Act 2022, Cross Heading: Exercise of departmental functions.