
STATUTORY INSTRUMENTS

2012 No. 2595

**The Northern Ireland Act 1998 (Devolution
of Policing and Justice Functions) Order 2012**

*Provision consequential on devolution to the Northern Ireland
Assembly of legislative power in relation to policing and justice matters*

Crime and Security Act 2010

22.—(1) Amend the Crime and Security Act 2010(1) as follows.

(2) In section 13(2) (“qualifying offence”)—

(a) in subsection (1), after paragraph (3) of the inserted Article 53A (“qualifying offence” etc) insert—

“(3A) The power to make an order under paragraph (3) is exercisable by the Department of Justice (and not by the Secretary of State) so far as the power may be used to make provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998(3)).”; and

(b) for subsection (2) substitute—

“(2) Amend Article 89(4) of that Order (orders and regulations) as follows—

(a) in paragraph (1)—

(i) after “made” insert “by the Secretary of State”; and

(ii) after “Article” insert “53A or”;

(b) in paragraph (2)—

(i) after “Article 53,” insert “53A,”; and

(ii) for “or 66,” insert “, 66 or 81”.”

(3) In section 42(5) (extension of licensing scheme)—

(a) in subsection (2), after the inserted section 4A(3) (requirement to license businesses etc) insert—

“(3A) In the application of this section to Northern Ireland—

(a) the reference in subsection (2)(c) to the Secretary of State must be construed as a reference to the Department of Justice in Northern Ireland; but

(1) 2010 c. 17.

(2) Section 13(1) inserts a new Article 53A into the Police and Criminal Evidence (Northern Ireland) Order 1989 (S.I. 1989/1341 (N.I. 12)). Section 13 is not yet in force.

(3) 1998 c. 47. Section 7 was amended by sections 84(1) and 86 of, and Schedule 13 to, the Justice (Northern Ireland) Act 2002 (c. 26) and section 30(1) of, and Schedule 4 to, the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).

(4) Article 89 has been amended by section 72(4) of the Police (Northern Ireland) Act 2000 (c. 32), section 42 of the Police (Northern Ireland) Act 2003 (c. 6), article 42 of S.I. 2007/288 (N.I. 2), and paragraph 12 of Schedule 2 to S.I. 2010/976.

(5) Section 42 inserts new sections 4A and 4B into the Private Security Industry Act 2001 (c. 12) and inserts new subsections into section 9 of that Act. Section 42 is not yet in force.

- (b) before making any order under subsection (2)(c) the Department of Justice in Northern Ireland must consult the Secretary of State.”;
- (b) in subsection (4), after the inserted section 9(2C) (licence conditions) insert—
 - “(2D) The Secretary of State must consult the Department of Justice in Northern Ireland before approving a nomination under subsection (2B) affecting persons carrying out activities in Northern Ireland.”
- (4) For section 44(2)(6) (charges for vehicle release: appeals) substitute—
 - “(2) Before section 23 there is inserted—

“22B Charges for vehicle release: appeals in Northern Ireland

- (1) The Department of Justice shall by regulations make provision for the purpose specified in subsection (2) in a case where, in Northern Ireland, a person carries out—
 - (a) an activity to which paragraph 3 of Schedule 2 applies by virtue of subparagraph (1)(c) of that paragraph (demanding or collecting a charge as a condition of the removal of an immobilisation device); or
 - (b) an activity to which paragraph 3A of Schedule 2 applies by virtue of subparagraph (1)(d) of that paragraph (demanding or collecting a charge as a condition of the release of a vehicle).
- (2) The purpose referred to in subsection (1) is to entitle a person otherwise entitled to remove the vehicle to appeal against the charge.
- (3) Regulations under this section shall specify the grounds on which an appeal may be made.
- (4) The grounds may include in particular—
 - (a) contravention of a code of practice issued by the Authority;
 - (b) contravention of any requirement imposed by or under this Act (including a condition contained in a licence granted under this Act).
- (5) Regulations under this section shall make provision for and in connection with the person to whom an appeal may be made.
- (6) That person may in particular be—
 - (a) a person exercising functions of adjudication or the hearing of appeals under another enactment;
 - (b) a body established by the Department of Justice under the regulations;
 - (c) an individual appointed under the regulations by the Department of Justice or by another person specified in the regulations.
- (7) Regulations under this section may also include provision—
 - (a) as to the procedural conditions to be satisfied by a person before an appeal may be made;
 - (b) as to the payment of a fee by the appellant;
 - (c) as to the procedure (including time limits) for making an appeal;
 - (d) as to the procedure for deciding an appeal;
 - (e) as to the payment to the appellant by the respondent of—
 - (i) the charge against which the appeal is made;

- (ii) other costs incurred by the appellant in consequence of the activity referred to in subsection (1);
 - (f) as to the payment by a party to an appeal of—
 - (i) costs of the other party in relation to the adjudication;
 - (ii) other costs in respect of the adjudication;
 - (g) as to the payment by the respondent to an appeal, in a case where the appeal is granted, of a charge in respect of the costs of adjudications under the regulations;
 - (h) as to the effect and enforcement of a decision of the person to whom an appeal is made;
 - (i) requiring or authorising the person to whom an appeal is made to provide information relating to the appeal to the Authority;
 - (j) to the effect that a person who makes a representation that is false in a material particular, and does so recklessly or knowing it to be false, commits an offence triable summarily and punishable with a fine not exceeding level 5 on the standard scale.
- (8) The provision specified in paragraphs (e), (f) and (g) of subsection (7) includes provision authorising the person to whom an appeal is made to require payment of the matters specified in those paragraphs.””
- (5) In section 59 (commencement)—
 - (a) in subsection (1), for “and (3)” substitute “to (3B)”;
 - (b) after subsection (3) insert—

“(3A) Sections 42 to 44 (private security industry) come into force, so far as extending to Northern Ireland, on such day as the Department of Justice in Northern Ireland may by order appoint after consulting the Secretary of State.

(3B) The following provisions come into force on such day as the Department of Justice in Northern Ireland may by order appoint—

 - (a) section 8 (except Article 61(6ZD) inserted by subsection (3) and Article 63(3BD)(c) inserted by subsection (7));
 - (b) sections 9 to 11(1);
 - (c) section 12;
 - (d) section 13 (except paragraph (2)(l), (n) and (r) of the inserted Article 53A).”;
 - (c) after subsection (5) insert—

“(5A) An order made by the Department of Justice in Northern Ireland under subsection (3A) or (3B) may—

 - (a) appoint different days for different purposes; and
 - (b) make transitional provision and savings.”;
 - (d) in subsection (6) at the beginning insert “Subject to subsection (7),”;
 - (e) after subsection (6) insert—

“(7) An order under subsection (3A) or (3B) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(7).”

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.
