SCHEDULES

SCHEDULE 1

Section 1(1).

POLLS FOR THE PURPOSES OF SECTION 1

Modifications etc. (not altering text)

C1 Sch. 1 amended (16.2.2001) by 2000 c. 41, **s. 102** (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I**

1 The Secretary of State may by order direct the holding of a poll for the purposes of section 1 on a date specified in the order.

2 Subject to paragraph 3, the Secretary of State shall exercise the power under paragraph 1 if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.

3 The Secretary of State shall not make an order under paragraph 1 earlier than seven years after the holding of a previous poll under this Schedule.

4 (1) An order under this Schedule directing the holding of a poll shall specify—

(a) the persons entitled to vote; and

(b) the question or questions to be asked.

(2) An order—

(a) may include any other provision about the poll which the Secretary of State thinks expedient (including the creation of criminal offences); and

(b) may apply (with or without modification) any provision of, or made under, any enactment.

SCHEDULE 2

Section 4(1).

EXCEPTED MATTERS

Modifications etc. (not altering text)

C2 Sch. 2 excluded by 1994 c. 9, s. 30A(11)(a) (as inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 23 para. 9**)

1 The Crown, including the succession to the Crown and a regency, but not—

(a) functions of the First Minister and deputy First Minister, the Northern Ireland Ministers or the Northern Ireland departments, or functions in relation to Northern Ireland of any Minister of the Crown;

(b) property belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes

of a government department (other than property used for the purposes of the armed forces of the Crown or the Ministry of Defence Police);

(c) the foreshore or the sea bed or subsoil or their natural resources so far as vested in Her Majesty in right of the Crown.

Modifications etc. (not altering text)

C3 Sch. 2 para. 1(a) extended (1.4.2000) by 1999 c. 28, **s. 35(4)**(with s. 38); S.I. 2000/1066, **art. 2**

2 The Parliament of the United Kingdom; parliamentary elections, including the franchise; disqualifications for membership of that Parliament.

3 International relations, including relations with territories outside the United Kingdom, **[**[F1]the European Union**]** (and their institutions) and other international organisations **[**[F2]and extradition**]** , and international development assistance and co-operation, but not—

(a) [F3]. . . . . .

[[F4](aa) co-operation between the Police Service of Northern Ireland and the Garda Síochána with respect to any of the following matters—

(i) transfers, secondments, exchanges or training of officers;

(ii) communications (including liaison and information technology);

(iii) joint investigations;

(iv) disaster planning;**]**

(b) the exercise of legislative powers so far as required for giving effect to any agreement or arrangement entered into—

(i) by a Minister or junior Minister participating, by reason of **[**[F5]any provision of section 52A or 52B**]** , in a meeting of the North-South Ministerial Council or the British-Irish Council; or

(ii) by, or in relation to the activities of, any body established for implementing, on the basis mentioned in paragraph 11 of Strand Two of the Belfast Agreement, policies agreed in the North-South Ministerial Council;

(c) observing and implementing international obligations **[**[F6]and obligations under the Human Rights Convention**]**.

In this paragraph "the Human Rights Convention" means the following as they have effect for the time being in relation to the United Kingdom—

(a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950; and

(b) any Protocols to that Convention which have been ratified by the United Kingdom.

Textual Amendments

F1 Words in Act substituted (22.4.2011) by The Treaty of Lisbon (Changes in Terminology) Order 2011 (S.I. 2011/1043), arts. 2, **3**, 4 (with arts. 3(2)(3), 4(2), 6(4)(5))

F2 Words in Sch. 2 para. 3 inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31, **Sch. 4 para. 12(a)**; S.I. 2009/448, **art. 2**

F3 Sch. 2 para. 3(a) repealed (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1)(2), 31, Sch. 4 para. 12(b), **Sch. 5**; S.I. 2009/448, **art. 2**

F4 Sch. 2 para. 3(aa) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 30(1), 31, **Sch. 4 para. 12(c)**; S.I. 2009/448, **art. 2**

F5 Words in Sch. 2 para. 3(b)(i) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 19, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 7 para. 4(2)} (with s. 1(3)); S.I. 2007/1397, **art. 2**

F6 Words in Sch. 2 para. 3(c) substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 60(2)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

4 The defence of the realm; trading with the enemy; the armed forces of the Crown but not any matter within paragraph 10 of Schedule 3; war pensions; the Ministry of Defence Police.

5 Control of nuclear, biological and chemical weapons and other weapons of mass destruction.

6 Dignities and titles of honour.

7 Treason but not powers of arrest or criminal procedure.

8 Nationality; immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens; free movement of persons within the European Economic Area; issue of travel documents.

9 The following matters—

(a) taxes or duties under any law applying to the United Kingdom as a whole;

(b) stamp duty levied in Northern Ireland before the appointed day; and

(c) taxes or duties substantially of the same character as those mentioned in sub-paragraph (a) or (b).

[[F7]9A Child Trust Funds.**]**

Textual Amendments

F7 Sch. 2 para. 9A inserted (13.5.2004) by Child Trust Funds Act 2004 (c. 6), **ss. 25**, 27

[[F8]9C The operation of the Small Charitable Donations Act 2012.**]**

Textual Amendments

F8 Sch. 2 para. 9C inserted (19.12.2012) by Small Charitable Donations Act 2012 (c. 23), **ss. 16**, 21

[[F9]9D Bonuses under the Savings (Government Contributions) Act 2017.**]**

Textual Amendments

F9 Sch. 2 para. 9D inserted (17.1.2017) by Savings (Government Contributions) Act 2017 (c. 2), **ss. 5(2)**, 6(2), (3)

10 The following matters—

(a) national insurance contributions;

(b) the control and management of the Northern Ireland National Insurance Fund and payments into and out of that Fund;

(c) reductions in and deductions from national insurance contributions;

(d) national insurance rebates;

(e) payments out of public money to money purchase pension schemes;

(f) contributions equivalent premiums;

(g) rights to return to the state pension scheme.

Sub-paragraph (a) includes the determination, payment, collection and return of national insurance contributions and matters incidental to those matters.

Sub-paragraph (b) does not include payments out of the Northern Ireland National Insurance Fund which relate to—

(i) the benefits mentioned in section 143(1) of the [M1]Social Security Administration (Northern Ireland) Act 1992, or benefits substantially of the same character as those benefits; or

(ii) administrative expenses incurred in connection with matters not falling within sub-paragraphs (a) to (g).

Sub-paragraphs (b) and (e) do not include payments out of or into the Northern Ireland National Insurance Fund under—

(i) section 172(1)(b), (2)(a) or (7)(c) of the [M2]Pension Schemes (Northern Ireland) Act 1993; or

(ii) Article 202, 227, 234 or 252 of the [M3]Employment Rights (Northern Ireland) Order 1996.

In this paragraph "contributions equivalent premium" has the meaning given by section 51(2) of the Pension Schemes (Northern Ireland) Act 1993.

Marginal Citations

M1 1992 c.8.

M2 1993 c.49.

M3 S.I. 1996/1919 (N.I.16).

[[F10]10A Tax credits under Part 1 of the Tax Credits Act 2002.**]**

Textual Amendments

F10 Sch. 2 para. 10A inserted (8.7.2002) by 2002 c. 21, **s. 64(2)(4)**

[[F11]10B **[**[F12]Health in pregnancy grant,**]** Child benefit and guardian's allowance.**]**

Textual Amendments

F11 Sch. 2 para. 10B inserted (8.7.2002) by 2002 c. 21, **s. 64(2)(4)**

F12 Words in Sch. 2 para. 10B inserted (1.1.2009) by virtue of Health and Social Care Act 2008 (c. 14), **ss. 137**, 170; S.I. 2008/3137, **art. 2**

[[F13]10C The operation of the Childcare Payments Act 2014.**]**

Textual Amendments

F13 Sch. 2 para. 10C inserted (17.12.2014) by Childcare Payments Act 2014 (c. 28), **ss. 68**, 75(1)(a)

11 The **[**[F14]determination of the remuneration, superannuation and other terms and conditions of service (other than those relating to removal from office)**]** of judges of the **[**[F15]Court of Judicature**]** of Northern Ireland, holders of offices listed in column 1 of Schedule 3 to the [M4]Judicature (Northern Ireland) Act 1978, county court judges, recorders, resident magistrates, [F16]... coroners, the Chief and other Social Security Commissioners for Northern Ireland **[**[F17]and the Chief and other Child Support Commissioners for Northern Ireland**]** .

Textual Amendments

F14 Words in Sch. 2 para. 11 substituted (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), **ss. 82(a)**, 87(1); S.R. 2010/52, art. 2(b)

F15 Words in Sch. 2 para. 11 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 59, 148, **Sch. 11 para. 33(2)**; S.I. 2009/1604, **art. 2(b)(d)**

F16 Words in Sch. 2 para. 11 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 13**; S.R. 2010/52, art. 2(e)

F17 Words in Sch. 2 para. 11 substituted (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), **ss. 82(b)**, 87(1); S.R. 2010/52, art. 2(b)

Marginal Citations

M4 1978 c.23.

[[F18]11A The Supreme Court **[**[F19], but not rights of appeal to the Supreme Court or legal aid for appeals to the Supreme Court**]** .**]**

Textual Amendments

F18 Sch. 2 para. 11A inserted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), **ss. 58(2)**, 148; S.I. 2009/1604, **art. 2(b)**

F19 Words in Sch. 2 para. 11A inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), **26** (with arts. 28-31)

12**[**[F20](1)**]** Elections, including the franchise, in respect of the Northern Ireland Assembly [F21]... and district councils.

[[F22](2) This paragraph does not apply to—

(a) the division of local government districts into areas ("district electoral areas") for the purposes of elections to the councils of those districts,

(b) the determination of the names of district electoral areas, or

(c) the determination of the number of councillors to be elected for a district electoral area or a local government district.**]**

Textual Amendments

F20 Sch. 2 para. 12 renumbered as Sch. 2 para. 12(1) (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 12(1)**, 28(4)

F21 Words in Sch. 2 para. 12(1) omitted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 60(3)** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)

F22 Sch. 2 para. 12(2) inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 12(1)**, 28(4)

[F23 13 The subject-matter of the Political Parties, Elections and Referendums Act 2000 with the exception of Part IX (political donations etc. by companies).

This paragraph does not include the funding of political parties for the purpose of assisting members of the Northern Ireland Assembly connected with such parties to perform their Assembly duties.]

Textual Amendments

F23 Sch. 2 para. 13 substituted (16.2.2001) by 2000 c. 41, s. 158, **Sch. 21 para. 14(3)** (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I**

14 Coinage, legal tender and bank notes.

15 The National Savings Bank.

16 The subject-matter of the [M5]Protection of Trading Interests Act 1980.

Marginal Citations

M5 1980 c.11.

[F24 16A Regulation of the provision of subsidies which are or may be distortive or harmful by a public authority to persons supplying goods or services in the course of a business.

In this paragraph—

"Public authority" means a person who exercises functions of a public nature.

"Subsidy" includes assistance provided to a person directly or indirectly by way of income or price support, grant, loan, guarantee, indemnity, the provision of goods or services and any other kind of assistance, whether financial or otherwise and whether actual or contingent.

A subsidy is provided "by a public authority" if it is provided by that authority directly or indirectly.

A subsidy is "distortive or harmful" if it distorts competition between, or otherwise causes harm or injury to, persons supplying goods or services in the course of a business, whether or not those persons are established in the United Kingdom.]

Textual Amendments

F24 Sch. 2 para. 16A inserted (31.12.2020) by United Kingdom Internal Market Act 2020 (c. 27), **ss. 52(2)**, 59(3) (with s. 55(2)); S.I. 2020/1621, reg. 2(i)

17 National security (including the Security Service, the Secret Intelligence Service and the Government Communications Headquarters); special powers and other

provisions for dealing with terrorism or subversion; **[**[F25]the Technical Advisory Board provided for by section 245 of the Investigatory Powers Act 2016;**]** the subject-matter of—

(a) the Official Secrets Acts [M6]1911 and [M7]1920;

[[F26](b) the subject-matter of sections 3 to 10, Schedule 1, Part 2 and Chapter 1 of Part 6 of the Investigatory Powers Act 2016, except so far as relating to the prevention or detection of serious crime (within the meaning of that Act);**]**

(c) the [M8]Official Secrets Act 1989, except so far as relating to any information, document or other article protected against disclosure by section 4(2) (crime) and not by any other provision of sections 1 to 4.

Textual Amendments

F25 Words in Sch. 2 para. 17 inserted (12.3.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 100** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/341, reg. 2(q)

F26 Sch. 2 para. 17(b) substituted (27.6.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 42** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/652, reg. 12(g)(iii)

Marginal Citations

M6 1911 c.28.

M7 1920 c.75.

M8 1989 c.6.

18 Nuclear energy and nuclear installations, including nuclear safety, security and safeguards, and liability for nuclear occurrences, but not the subject-matter of—

(a) section 3(5) to (7) of the [M9]Environmental Protection Act 1990 (emission limits); or

(b) the [M10]Radioactive Substances Act 1993.

Marginal Citations

M9 1990 c.43.

M10 1993 c.12.

19 Regulation of sea fishing outside the Northern Ireland zone (except in relation to Northern Ireland fishing boats).

In this paragraph "Northern Ireland fishing boat" means a fishing vessel which is registered in the register maintained under section 8 of the [M11]Merchant Shipping Act 1995 and whose entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging.

Marginal Citations

M11 1995 c.21.

20 Regulation of activities in outer space.

[[F27]20A Regulation of activities in Antarctica (which for these purposes has the meaning given by section 1 of the Antarctic Act 1994).**]**

Textual Amendments

F27 Sch. 2 para. 20A inserted (retrospectively) by Antarctic Act 2013 (c. 15), **s. 17**

21 Any matter with which a provision of the [M12]Northern Ireland Constitution Act 1973**[**[F28], other than section 36(1)(c),**]** solely or mainly deals.

Textual Amendments

F28 Words in Sch. 2 para. 21 inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 10(1)**, 28(4)

Marginal Citations

M12 1973 c.36.

[[F29]21A The office and functions of the Advocate General for Northern Ireland.**]**

Textual Amendments

F29 Sch. 2 para. 21A inserted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), **ss. 27(4)**, 87(1); S.R. 2010/113, art. 2, Sch. para. 7

22 Any matter with which a provision of this Act falling within the following sub-paragraphs solely or mainly deals—

(a) Parts I and II;

(b) Part III except sections 19, 20, 22, 23(2) to (4) **[**[F30], 28, 28A, 28B, 28D and 28E**]** ;

(c) Part IV except sections 40, 43, 44(8) and 50 and Schedule 5;

(d) in Part V, sections **[**[F31]52A to 52C**]** and 54;

(e) Part VI except sections 57(1) and 67;

[[F32](f) in Part VII, sections 69B, 71(1) and (2) and (3) to (5), 74(5) and (6), 76 and 78;**]**

(g) in Part VIII, sections 79 to 83 and Schedule 10.

This paragraph does not apply to—

(i) any matter in respect of which it is stated by this Act that provision may be made by Act of the Assembly;

(ii) any matter to which a description specified in this Schedule or Schedule 3 is stated not to apply; or

(iii) any matter falling within a description specified in Schedule 3.

Textual Amendments

F30 Words in Sch. 2 para. 22(b) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 19, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 7 para. 4(3)(a)} (with s. 1(3)); S.I. 2007/1397, **art. 2**

F31 Words in Sch. 2 para. 22(d) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 19, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 7 para. 4(3)(b)} (with s. 1(3)); S.I. 2007/1397, **art. 2**

F32 Sch. 2 para. 22(f) substituted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 11(1)**, 28(4)

Modifications etc. (not altering text)

C4 Sch. 2 para. 22 modified (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 2**

SCHEDULE 3

Section 4(1).

RESERVED MATTERS

Modifications etc. (not altering text)

C5 Sch. 3 excluded by 1994 c. 9, s. 30A(11)(a) (as inserted (17.7.2012) by Finance Act 2012 (c. 14), **Sch. 23 para. 9**)

1 The conferral of functions in relation to Northern Ireland on any Minister of the Crown **[**[F33]apart from the Advocate General for Northern Ireland**]** .

Textual Amendments

F33 Words in Sch. 3 para. 1 inserted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 12 para. 65(2)**; S.R. 2010/113, art. 2, Sch. para. 20(c)

2 Property belonging to Her Majesty in right of the Crown or belonging to a department of the Government of the United Kingdom or held in trust for Her Majesty for the purposes of such a department (other than property used for the purposes of the armed forces of the Crown or the Ministry of Defence Police).

3 Navigation, including merchant shipping, but not harbours or inland waters.

4 Civil aviation but not aerodromes.

5 The foreshore and the sea bed and subsoil and their natural resources (except so far as affecting harbours); submarine pipe-lines; submarine cables, including any land line used solely for the purpose of connecting one submarine cable with another.

6 Domicile.

[[F34]7 The subject-matter of the Postal Services Act 2000.

This paragraph does not include financial assistance for the provision of services (other than postal services and services relating to postal or money orders) to be provided from public post offices.

In this paragraph "postal services" and "public post offices" have the same meanings as in the Postal Services Act 2000.**]**

Textual Amendments

F34 Sch. 3 para. 7 substituted (26.3.2001 subject to transitional provision in arts. 3-42 of the commencing S.I.) by 2000 c. 26, s. 127(4), **Sch. 8**, Pt. II para. 26; S.I. 2001/1148, art. 2, **Sch.**

[F35 7A The alteration of the number of members of the Assembly returned for each constituency.

This paragraph does not include—

(a) the alteration of that number to a number lower than five or higher than six, or

(b) the provision of different numbers for different constituencies.]

Textual Amendments

F35 Sch. 3 para. 7A inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 6(2)**, 28(4)

8 Disqualification for membership of the Assembly; privileges, powers and immunities of the Assembly, its members and committees greater than those conferred by section 50.

[F36 9 (1) The following matters—

[F37 (a) the subject-matter of Parts 2 and 3 of the Regulation of Investigatory Powers Act 2000, so far as relating to the prevention or detection of crime (within the meaning of that Act) or the prevention of disorder;

(aa) the subject-matter of the following provisions of the Investigatory Powers Act 2016, so far as relating to the prevention or detection of serious crime (within the meaning of that Act)—

(i) sections 3 to 10 and Schedule 1,

(ii) Part 2, and

(iii) Chapter 1 of Part 6;

(ab) the subject-matter of section 11, Parts 3 and 4 and Chapter 2 of Part 6 of the Investigatory Powers Act 2016, so far as relating to the prevention or detection of crime (within the meaning of that Act) or the prevention of disorder;

(ac) the subject-matter of section 12 of, and Schedule 2 to, the Investigatory Powers Act 2016, so far as relating to the prevention or detection of crime (within the meaning of that Act);]

(b) in relation to the prevention or detection of crime, the subject-matter of Part 3 of the Police Act 1997;

(c) the operation of—

(i) sections 21 to 40 of, and Schedules 3 and 4 to, the Justice and Security (Northern Ireland) Act 2007, and

(ii) section 102 of, and Schedule 12 to, the Terrorism Act 2000;

(d) in relation to terrorism, the exercise of the Royal prerogative of mercy;

(e) the operation of sections 1 to 8 of, and Schedule 1 to, the Justice and Security (Northern Ireland) Act 2007 and the operation of Part 1 of the Criminal Procedure and Investigations Act 1996 where a certificate under section 1 of the 2007 Act has been issued;

(f) in relation to the regulation of drugs or other substances through the criminal law (including offences, exceptions to offences, penalties, powers of arrest and detention, prosecutions and the treatment of offenders) or otherwise in relation to the prevention or detection of crime—

(i) the subject-matter of the Misuse of Drugs Act 1971;

(ii) the subject-matter of sections 12 and 13 of the Criminal Justice (International Co-operation) Act 1990;

[F38(g) the National Crime Agency;]

(h) in relation to prisons, the accommodation of persons in separated conditions on the grounds of security, safety or good order.

(2) In sub-paragraph (1)(h) "prisons" includes any institution for the detention of persons because of their involvement, or suspected involvement, in crime.

(3) This paragraph does not include any excepted matters or any matter within paragraph 10 of this Schedule.]

Textual Amendments

F36 Sch. 3 para. 9 substituted (12.4.2010) by The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **3**

F37 Sch. 3 para. 9(1)(a)-(ac) substituted for Sch. 3 para. 9(1)(a) (27.6.2018) by Investigatory Powers Act 2016 (c. 25), s. 272(1), **Sch. 10 para. 2** (with Sch. 9 paras. 7, 8, 10); S.I. 2018/652, reg. 12(g)(i)

F38 Sch. 3 para. 9(1)(g) substituted (7.10.2013) by Crime and Courts Act 2013 (c. 22), s. 61(2), **Sch. 8 para. 63**; S.I. 2013/1682, art. 3(v)

F39 9A . . . . . .

Textual Amendments

F39 Sch. 3 para. 9A omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **8(1)**

[F40 10 (1) The subject-matter of the Public Processions (Northern Ireland) Act 1998.

(2) In relation to the maintenance of public order, the armed forces of the Crown (including the conferring of powers, authorities, privileges or immunities on members of the armed forces for the purposes of the maintenance of public order).

(3) This paragraph does not include any matter within paragraph 17 of Schedule 2.]

Textual Amendments

F40 Sch. 3 para. 10 substituted (12.4.2010) by The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **4**

[F41 11 The operation of the temporary provisions, as defined in section 47 of the Police (Northern Ireland) Act 2000.]

Textual Amendments

F41 Sch. 3 para. 11 substituted (12.4.2010) by The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **5**

F42 11A . . . . . .

Textual Amendments

F42 Sch. 3 para. 11A omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **6**

[F43 12 (1) Items for the time being specified in Article 45(1) or (2) of the Firearms (Northern Ireland) Order 2004; and the subject-matter of Article 45(10) of that Order.

(2) The security of explosives, including—

(a) the prevention of loss or theft of explosives,

(b) the prevention of the use of explosives for wrongful purposes, and

(c) the detection, identification and traceability of explosives.

This sub-paragraph does not include the security of fireworks, or the licensing of shotfirers, or the subject-matter of section 2 of the Explosives Act (Northern Ireland) 1970.]

Textual Amendments

F43 Sch. 3 para. 12 substituted (12.4.2010) by The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **7**

13 Civil defence.

14 The subject-matter of [F44 Part 2 of the Civil Contingencies Act 2004] .

Textual Amendments

F44 Words in Sch. 3 para. 14 substituted (10.12.2004) by Civil Contingencies Act 2004 (c. 36), ss. 32, 34, **Sch. 2 para. 13**; S.I. 2004/3281, **art. 2(2)**

F45 14A . . . . . .

Textual Amendments

F45 Sch. 3 para. 14A omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **8(2)**

F46 15 . . . . . .

Textual Amendments

F46 Sch. 3 para. 15 omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **8(3)**

F47 15A . . . . . .

Textual Amendments

F47 Sch. 3 para. 15A omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **8(4)**

16 The [F48]... Civil Service Commissioners for Northern Ireland.

Textual Amendments

F48 Words in Sch. 3 para. 16 omitted (13.5.2014) by virtue of Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 10(2)**, 28(4)

[F49]17 . . . . . .

Textual Amendments

F49 Sch. 3 para. 17 omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 (S.I. 2010/977), arts. 1(2), **8(5)**

18 The subject-matter of sections 149 to 151 of and Schedules 5 and 5A to the [M13]Social Security Administration (Northern Ireland) Act 1992 (Social Security Advisory Committee and Industrial Injuries Advisory Council).

Marginal Citations

M13 1992 c.8.

19 The subject-matter of the Vaccine Damage Payment Scheme.

20 Import and export controls and trade with any place outside the United Kingdom but not—

(a) the furtherance of the trade of Northern Ireland or the protection of traders in Northern Ireland against fraud;

(b) services in connection with, or the regulation of, the quality, insurance, transport, marketing or identification of agricultural or food products, including livestock;

(c) the prevention of disease or the control of weeds and pests;

(d) aerodromes and harbours;

(e) any matter within paragraph 4 of Schedule 2.

21 The subject-matter of the [M14]National Minimum Wage Act 1998.

Marginal Citations

M14 1998 c.39.

22 The subject-matter of the following provisions of the [M15]Pension Schemes Act 1993—

(a) section 6(1), (2)(a)(i), (iii) and (iv) and (b), (3), (4) and (8) (registration of occupational and personal pension schemes);

(b) section 145 (Pensions Ombudsman).

Marginal Citations

M15 1993 c.48.

23 The following matters—

(a) financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance;

(b) financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

This paragraph does not include the subject-matter of—

(a) the [M16]Industrial and Provident Societies Act Northern Ireland) 1969;

(b) the [M17]Credit Unions (Northern Ireland) Order 1985;

(c) the [M18]Companies (Northern Ireland) Order 1986;

(d) the [M19]Insolvency (Northern Ireland) Order 1989;

(e) the [M20]Companies (Northern Ireland) Order 1990;

(f) the [M21]Companies (No.2) (Northern Ireland) Order 1990;

(g) the [M22]Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations (Northern Ireland) 1997.

Marginal Citations

M16 1969 c.4 (N.I.).
M17 S.I. 1985/1205 (N.I.12).
M18 S.I. 1986/1032 (N.I.6).
M19 S.I. 1989/2405 (N.I.19).
M20 S.I. 1990/593 (N.I.5).
M21 S.I. 1990/504 (N.I.10).
M22 S.R.&O. 1997/251.

24 The subject-matter of—

(a) the [M23]Building Societies Act 1986;

(b) the [M24]Friendly Societies Act 1992.

Marginal Citations

M23 1986 c.53.
M24 1992 c.40.

25 The subject-matter of **[**[F50]the Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017**]** , but in relation to any type of business.

Textual Amendments

F50 Words in Sch. 3 para. 25 substituted (26.6.2017) by The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692), reg. 1(2), **Sch. 7 para. 2(a)** (with regs. 8, 15)

[F51]25A . . . . . .

Textual Amendments

F51 Sch. 3 para. 25A omitted (26.6.2017) by virtue of The Money Laundering, Terrorist Financing and Transfer of Funds (Information on the Payer) Regulations 2017 (S.I. 2017/692), reg. 1(2), **Sch. 7 para. 2(b)** (with regs. 8, 15)

26 Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

27 Intellectual property but not the subject-matter of Parts I and II of the [M25]Plant Varieties Act 1997 (plant varieties and the Plant Varieties and Seeds Tribunal).

Marginal Citations

M25 1997 c.66.

28 Units of measurement and United Kingdom primary standards.

29 Telecommunications; wireless telegraphy; the provision of programme services (within the meaning of the [M26]Broadcasting Act 1990); internet services; electronic encryption; the subject matter of Part II of the [M27]Wireless Telegraphy Act 1949 (electromagnetic disturbance).

Marginal Citations

M26 1990 c.42.

M27 1949 c.54.

30 The National Lottery (except in so far as any matter within Schedule 2 is concerned).

31 Xenotransplantation.

32 Surrogacy arrangements, within the meaning of the [M28]Surrogacy Arrangements Act 1985, including the subject-matter of that Act.

Marginal Citations

M28 1985 c.49.

33 The subject-matter of the [M29]Human Fertilisation and Embryology Act 1990.

Marginal Citations

M29 1990 c.37.

34 Human genetics.

35 Research Councils within the meaning of the [M30]Science and Technology Act 1965.

Marginal Citations

M30 1965 c.4.

[[F52]35A United Kingdom Research and Innovation.]

Textual Amendments

F52 Sch. 3 para. 35A substituted (31.10.2018) by Higher Education and Research Act 2017 (c. 29), s. 124(5), **Sch. 12 para. 17**; S.I. 2018/1054, reg. 2(d)(vii)

36 Areas in which industry may qualify for assistance under Part III of the [M31]Industrial Development Act 1982.

Marginal Citations

M31 1982 c.52.

37 Consumer safety in relation to goods.

38 [[F53]The subject matter of all technical standards and requirements in relation to products that had effect immediately before [[F54]IP completion day] in pursuance of an obligation under EU law, other than] standards and requirements in relation to food, agricultural or horticultural produce, fish or fish products, seeds, animal feeding stuffs, fertilisers or pesticides.

Textual Amendments

F53 Words in Sch. 3 para. 38 substituted (31.12.2020) by European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 61** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with reg. 10)

F54 Words in Sch. 3 para. 38 substituted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 5 para. 26** (with s. 38(3)); S.I. 2020/1622, reg. 5(j) (with reg. 10)

39 The subject-matter of section 3(5) to (7) of the [M32]Environmental Protection Act 1990 (emission limits); the environmental protection technology scheme for research and development in the United Kingdom.

Marginal Citations

M32 1990 c.43.

40 The subject-matter of—

(a) the [M33]Data Protection Act 1984;

(b) the [M34]Data Protection Act 1998; and

(c) Council Directive 95/46/EC (protection of individuals with regard to the processing of personal data and free movement of such data).

Marginal Citations

M33 1984 c.35.

M34 1998 c.35.

41 Oaths and declarations (including all undertakings and affirmations, by whatever name) other than those within section 77(3).

[[F55]41A(1) The division of local government districts into areas ("district electoral areas") for the purposes of elections to the councils of those districts.

(2) The determination of the names of district electoral areas.

(3) The determination of the number of councillors to be elected for a district electoral area or a local government district.**]**

Textual Amendments

F55 Sch. 3 para. 41A inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 12(2)**, 28(4)

42 Any matter with which a provision of this Act falling within the following sub-paragraphs solely or mainly deals—

(a) in Part III, sections 19, 20 **[**[F56], 28, 28A and 28B**]** ;

[[F57](aa) in Part VII, sections 68 to 69A, 69C to 70, 71(2A) to (2C) and Schedule 7;**]**

(b) in Part VII, sections 73, 74(3) and (4), 75 and 77(1), (2) and (4) to (8) and Schedules 8 and 9;

[[F58](ba) in Part VII, sections 78A to 78E;**]**

(c) in Part VIII, sections 90 to 93 and Schedule 11.

This paragraph does not apply to—

(i) any matter in respect of which it is stated by this Act that provision may be made by Act of the Assembly; or

(ii) any matter to which a description specified in this Schedule or Schedule 2 is stated not to apply.

Textual Amendments

F56 Words in Sch. 3 para. 42(a) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 19, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 7 para. 5} (with s. 1(3)); S.I. 2007/1397, **art. 2**

F57 Sch. 3 para. 42(aa) inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 11(2)**, 28(4)

F58 Sch. 3 para. 42(ba) inserted (31.12.2020) by European Union (Withdrawal Agreement) Act 2020 (c. 1), s. 42(7), **Sch. 3 para. 8** (with s. 38(3)); S.I. 2020/1622, reg. 5(i)

SCHEDULE 4

Section 16(10).

ANNEX A TO STRAND ONE OF BELFAST AGREEMENT

PLEDGE OF OFFICE

To pledge:

(a) to discharge in good faith all the duties of office;

(b) commitment to non-violence and exclusively peaceful and democratic means;

(c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;

[[F59](ca) to promote the interests of the whole community represented in the Northern Ireland Assembly towards the goal of a shared future;

(cb) to participate fully in the Executive Committee, the North-South Ministerial Council and the British-Irish Council;

(cc) to observe the joint nature of the offices of First Minister and deputy First Minister;

(cd) to uphold the rule of law based as it is on the fundamental principles of fairness, impartiality and democratic accountability, including support for policing and the courts as set out in paragraph 6 of the St Andrews Agreement;**]**

[[F60](ce) to support the rule of law unequivocally in word and deed and to support all efforts to uphold it;

(cf) to work collectively with the other members of the Executive Committee to achieve a society free of paramilitarism;

(cg) to challenge all paramilitary activity and associated criminality;

(ch) to call for, and to work together with the other members of the Executive Committee to achieve, the disbandment of all paramilitary organisations and their structures;

(ci) to challenge paramilitary attempts to control communities;

(cj) to support those who are determined to make the transition away from paramilitarism;

(ck) to accept no authority, direction or control on my political activities other than my democratic mandate alongside my own personal and party judgment;**]**

(d) to participate with colleagues in the preparation of a programme for government;

(e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;

(f) to support, and act in accordance with, all decisions of the Executive Committee and Assembly;

(g) to comply with the Ministerial Code of Conduct.

[[F61]Paragraph 6 of the St Andrews Agreement says: We believe that the essential elements of support for law and order include endorsing fully the Police Service of Northern Ireland and the criminal justice system, actively encouraging everyone in the community to co-operate fully with the PSNI in tackling crime in all areas and actively supporting all the policing and criminal justice institutions, including the Policing Board.**]**

Textual Amendments

F59 Sch. 4 pledge of office: (ca)-(cd) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(1)**, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

F60 Sch. 4 pledge of office: (ce)-(ck) inserted (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), **ss. 7**, 11(2)

F61 Sch. 4 pledge of office: words inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(2)**, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

Textual Amendments

F59 Sch. 4 pledge of office: (ca)-(cd) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(1)**, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

F60 Sch. 4 pledge of office: (ce)-(ck) inserted (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), **ss. 7**, 11(2)

F61 Sch. 4 pledge of office: words inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 7(2)**, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

CODE OF CONDUCT

[F62 1 (1) Ministers must at all times—

(a) maintain the highest standards of conduct and behave in a way that upholds the highest standards of propriety;

(b) be accountable to the Assembly and the public for the decisions and actions of their departments and agencies, including stewardship of public funds and the extent to which key performance targets and objects have been met;

(c) uphold the Nolan principles;

(d) comply with this code and with rules relating to the use of public funds;

(e) operate in a way that is conducive to promoting good community relations and equality of opportunity, treating all those with whom they come into contact with consideration and respect;

(f) ensure that no conflict arises, or could be reasonably perceived to arise, between Ministers' public duties and their private interests, financial or otherwise, and comply with rules concerning conflicts of interest;

(g) refrain from using information gained in the course of their service for personal gain and from using the opportunity of public service to promote their private interests;

(h) ensure that official resources are not used for party political purposes;

(i) comply with rules regarding the management of official information;

(j) comply with rules on the acceptance of gifts and hospitality;

(k) uphold the political impartiality of the civil service, not asking civil servants to act in any way which would conflict with the Northern Ireland Civil Service Code of Ethics;

(l) make civil service and public appointments in accordance with relevant legislation and relevant recruitment codes; and ensure that the rules on management and conduct of special advisers, including discipline, are complied with.

(2) "The Nolan principles" means the seven general principles of public life set out in the First Report of the Committee on Standards in Public Life (Cm 2850) as revised or replaced from time to time.**]**

Textual Amendments

F62 Sch. 4 para. 1 substituted for words (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 5(1)**, 9 (with s. 5(2)(3))

[[F63]SCHEDULE 4A

Section 21A

DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

Textual Amendments

F63 Sch. 4A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 17, 31, **Sch. 2** (as amended (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 9, 27, Sch. 5 paras. 8-14, Sch. 6 (with s. 1(3)); S.I. 2007/1397, art. 2 (which amending Act was itself amended (27.3.2007) by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) and as amended (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44, 53, Sch. 5 paras. 2, 3; S.I. 2009/446, art. 3); S.I. 2009/448, **art. 2**

PART 1

DEPARTMENT IN THE CHARGE OF MINISTER APPROVED BY RESOLUTION OF ASSEMBLY [[F64]BY VIRTUE OF SECTION 21A(3)]

Textual Amendments

F64 Words in Sch. 4 Pt. 1 heading inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 4(2)**

Introduction

1 (1) This Part of this Schedule has effect in relation to a Northern Ireland department—

(a) the functions of which consist wholly or mainly of devolved policing and justice functions; and

(b) in relation to which an Act of the Assembly provides, by virtue of section 21A(3), for it to be in the charge of a Northern Ireland Minister (the "relevant Minister") appointed by virtue of a nomination—

(i) made by the First Minister and the deputy First Minister acting jointly; and

(ii) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

(2) In this paragraph "devolved policing and justice function" has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

1A Section 16A(3) shall have effect as if, for paragraph (b) (and the word "and" before it) there were substituted—

(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 1 of Schedule 4A) shall be filled by applying paragraph 3(3) to (6) of that Schedule; and

(b) once that office has been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

Section 18 not to apply to relevant Minister

2 (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—

(a) the relevant Minister; or

(b) the Ministerial office held by the relevant Minister (the "relevant Ministerial office"),

and paragraph 3 shall apply instead.

(2) But the references to Ministerial offices in—

(a) subsection (1)(c) and (d) of section 18; and

(b) subsection (5) of that section (in the definition of M),

shall be taken to include the relevant Ministerial office.

Provisions relating to relevant Minister

3 (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—

(a) the relevant Minister shall (if holding office at the time) cease to hold office; and

(b) the relevant Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

(2) The relevant Ministerial office shall be filled by applying sub-paragraphs (3) to (6) before section 18(2) to (6) is applied in relation to the other Ministerial offices.

(3) The First Minister and the deputy First Minister acting jointly shall nominate a member of the Assembly to hold the relevant Ministerial office.

(3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.

(4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with 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.

(5) If—

(a) the nomination does not take effect within a period specified in standing orders; or

(b) the nominated person does not take up the office for which he has been nominated within that period,

a further nomination of a member of the Assembly shall be made under sub-paragraph (3).

(6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial office is filled.

(7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold the relevant Ministerial office.

(8) The relevant Minister shall not take up office until he has affirmed the terms of the pledge of office.

(9) The relevant Minister shall cease to hold office if—

(a) he resigns by notice in writing to the First Minister and the deputy First Minister;

(b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or

(c) he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or

(d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(10) If the relevant Minister ceases to hold office at any time, otherwise than by virtue of sub-paragraph (1), the relevant Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

(10A) If, as a result of the relevant Minister ("the former Minister") ceasing to hold office and the relevant Ministerial office being filled by virtue of sub-paragraph (10),—

(a) the total number of Ministerial offices held by members of a political party increases; or

(b) the total number of Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.

(10B) But sub-paragraph (10A) shall not apply if—

(a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and

(b) before the relevant Ministerial office was filled, either of the conditions in sub-paragraph (10C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer.

(10C) The conditions are that—

(a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for the relevant Ministerial office but consent to his nomination was not given in accordance with sub-paragraph (3A); or

(b) the member was nominated under sub-paragraph (3) for the relevant Ministerial office and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.

(11) Where—

(a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and

(b) the party's period of exclusion under that provision has not come to an end,

no member of that party may be nominated under sub-paragraph (3).

[F65](12) . . . . . .

(13) In this paragraph, a reference to a period of exclusion [F66]... is, in the case of a period of exclusion [F66]... which has been extended, a reference to that period as extended.

(14) In this paragraph "nominating officer" has the same meaning as in section 18.

Textual Amendments

F65 Sch. 4A para. 3(12) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(i)(aa)

F66 Words in Sch. 4A para. 3(13) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(i)(bb)

[[F67]PART 1A

DEPARTMENT IN THE CHARGE OF MINISTER APPROVED BY RESOLUTION OF THE ASSEMBLY BY VIRTUE OF SECTION 21A(3A)

Textual Amendments

F67 Sch. 4A Pt. 1A inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 4(3)**

Introduction

3A (1) This Part of this Schedule has effect in relation to a Northern Ireland department—

(a) the functions of which consist wholly or mainly of devolved policing and justice functions, and

(b) in relation to which an Act of the Assembly provides, by virtue of section 21A(3A), for it to be in the charge of a Northern Ireland Minister (the "relevant Minister") appointed by virtue of a nomination—

(i) made by one or more members of the Assembly, and

(ii) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

(2) In this paragraph "devolved policing and justice function" has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

[F68 3B Section 16A(3) has effect as if, for paragraph (b) (and the word "and" before it) there were substituted—

"(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 1A of Schedule 4A) shall be filled by applying paragraph 3D(4) to (8) of that Schedule; and

(b) once that office has been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6)."]

Textual Amendments

F68 Sch. 4A para. 3B substituted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(2)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

Section 18 not to apply to relevant Minister

3C [F69 (1)] [Section 18 (Northern Ireland Ministers) shall not apply in relation to—

(a) the relevant Minister, or

(b) the Ministerial office held by the relevant Minister (the "relevant Ministerial office"),

and paragraph 3D shall apply instead.

[F70 (2) [But the reference to Ministerial offices in subsection (5) of that section (in the definition of M) shall be taken to include the relevant Ministerial office.]

Textual Amendments

F69 Sch. 4A para. 3C renumbered as Sch. 4A para. 3C(1) (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(3)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

F70 Sch. 4A para. 3C(2) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(3)(b)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

Provisions relating to relevant Minister

3D [F71 (A1) [Where—

(a) an Assembly is elected—

(i) at a poll the date for which is proposed under section 32(3B), or

(ii) following the issue of a certificate under section 18(A2),

(b) the period of 24 weeks beginning with the day on which an Assembly first meets expires without the offices mentioned in section 16A(3) having been filled, or

(c) the period of 48 weeks beginning with the day on which a vacancy arises in the offices of First Minister and deputy First Minister expires without those offices having been filled,

the relevant Minister shall cease to hold office (and the relevant Ministerial office shall remain vacant until next filled by virtue of section 16A).]

(1) Where any of the following conditions is satisfied—

(a) the relevant Minister shall (if holding office at the time) cease to hold office, and

(b) the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) within a period specified in standing orders.

(2) The conditions are—

(a) a determination under section 17(1) takes effect;

(b) a resolution which causes the relevant Ministerial office to become vacant is passed under section 30(2);

[F72](c) . . . . . .

(d) a period of exclusion under section 30(2) [F73]... comes to an end [F73]...;

(e) such other circumstances obtain as may be specified in standing orders for the purposes of section 18(1)(e) but only so far as standing orders provide for those circumstances to be applicable for the purposes of this sub-paragraph.

(3) If relevant, the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) after **[**[F74]section 16B(3) to (7) is applied in relation to the offices of First Minister and deputy First Minister but before**]** section 18(2) to (6) is applied in relation to the other Ministerial offices.

(4) One or more members of the Assembly may nominate another member of the Assembly to hold the relevant Ministerial office.

[F75](4A) **[** But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to the nomination within a period specified in standing orders.**]**

(5) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with 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.

(6) Once one member has been nominated, no further nominations may be made unless and until sub-paragraph (7) applies.

(7) If—

(a) the nomination does not take effect within a period specified in standing orders, or

(b) the nominated person does not take up the office for which the person has been nominated within that period,

a further nomination of a member of the Assembly may be made under sub-paragraph (4).

(8) Sub-paragraphs (4) to (7) shall be applied as many times as may be necessary to secure that the relevant Ministerial office is filled.

(9) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold the relevant Ministerial office.

(10) The relevant Minister shall not take up office until the Minister has affirmed the terms of the pledge of office.

(11) The relevant Minister shall cease to hold office if—

(a) the Minister resigns by notice in writing to the First Minister and the deputy First Minister,

[F76(aa) there is an Assembly election at which the Minister is not returned as a member,**]**

(b) the Minister ceases to be a member of the Assembly otherwise than by virtue of a dissolution, F77...

[F78(ba) where consent to the Minister's nomination was required under sub-paragraph (4A), the Minister is dismissed by the nominating officer of the party and the Presiding Officer is notified of the dismissal, or**]**

(c) **[**F79where consent to the Minister's nomination was not required under sub-paragraph (4A),**]** the Assembly resolves that the Minister is to cease to hold office.

(12) A resolution for the purposes of sub-paragraph (11)(c) must be passed with 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.

(13) A motion for a resolution for the purposes of sub-paragraph (11)(c) shall not be moved unless—

(a) it is supported by at least 30 members of the Assembly, or

(b) it is moved by the First Minister and the deputy First Minister acting jointly.

(14) If the relevant Minister ceases to hold office at any time, otherwise than by virtue of sub-paragraph **[**F80(A1) or**]** (1), the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) within a period specified in standing orders.

(15) Where—

(a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence, and

(b) the party's period of exclusion under that provision has not come to an end,

no member of that party may be nominated under sub-paragraph (4).

F81(16) . . . . . .

(17) In this paragraph, a reference to a period of exclusion F82... is, in the case of a period of exclusion F82... which has been extended, a reference to that period as extended.**]**

F83(18) **[** In this paragraph and paragraph 3E "nominating officer" has the same meaning as in section 18.**]**

Textual Amendments

F71 Sch. 4A para. 3D(A1) inserted (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 2(5)(a)**, 9 (with s. 4(2)(3))

F72 Sch. 4A para. 3D(2)(c) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(ii)(aa)

F73 Words in Sch. 4A para. 3D(2)(d) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(ii)(bb)

F74 Words in Sch. 4A para. 3D(3) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(5)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

F75 Sch. 4A para. 3D(4A) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(6)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

F76 Sch. 4A para. 3D(11)(aa) inserted (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 2(5)(b)**, 9 (with s. 4(2)(3))

F77 Word in Sch. 4A para. 3D(11)(b) omitted (27.9.2014) by virtue of Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

F78 Sch. 4A para. 3D(11)(ba) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

F79 Words in Sch. 4A para. 3D(11)(c) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(b)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

F80 Words in Sch. 4A para. 3D(14) inserted (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 2(5)(c)**, 9 (with s. 4(2)(3))

F81 Sch. 4A para. 3D(16) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(ii)(cc)

F82 Words in Sch. 4A para. 3D(17) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(ii)(dd)

F83 Sch. 4A para. 3D(18) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(8)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

Modifications etc. (not altering text)

C6 Sch. 4A para. 3D(1) excluded (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), s. 11(2), **Sch. 1 para. 2(1)**

C7 Sch. 4A para. 3D(2)(a) excluded (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), s. 11(2), **Sch. 1 para. 2(1)**

Reappointment of other Northern Ireland Ministers in certain cases

[F84 3E (1) Where the first condition or the second condition is met—

(a) all the Northern Ireland Ministers other than the relevant Minister cease to hold office, and

(b) those Ministerial offices must be filled by applying section 18(2) to (6) within a period specified in standing orders.

(2) The first condition is that—

(a) the relevant Minister ceased to hold office by virtue of paragraph 3D(1)(a), and the office was filled by virtue of paragraph 3D(1)(b),

(b) paragraph 3D(1) applied because a resolution was passed under section 30(2) which caused no Ministerial office other than the relevant Ministerial office to become vacant, and

(c) as a result of the events mentioned in paragraph (a) the total number of Ministerial offices held by members of a political party increased or decreased.

(3) The second condition is that—

(a) the relevant Minister ("the former Minister") ceased to hold office otherwise than by virtue of paragraph 3D(1)(a), and the office was filled by virtue of paragraph 3D(14), and

(b) as a result of the events mentioned in paragraph (a) the total number of Ministerial offices held by members of a political party increased or decreased.

(4) But the second condition is not met where—

(a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under paragraph 3D(11)(ba),

(b) immediately before the office was filled there was at least one eligible member of the nominating officer's political party, and

(c) each such eligible member failed to fill the office for one or other of the following reasons.

(5) Those reasons are—

(a) that one or more members of the Assembly sought to nominate the eligible member for the office, but consent to the nomination was not given by the nominating officer in accordance with paragraph 3D(4A);

(b) that the eligible member was nominated for the office but did not take it up within the period specified in standing orders under paragraph 3D(7)(a).

(6) References in this paragraph to an eligible member of a political party are to a member of that party who is also a member of the Assembly, but do not include the former Minister.**]**

Textual Amendments

F84 Sch. 4A para. 3E inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 9**, 28(7); S.I. 2014/2613, art. 2(1)(b)

PART 2

DEPARTMENT IN THE CHARGE OF TWO MINISTERS

Introduction

4 (1) This Part of this Schedule has effect in relation to a Northern Ireland department—

(a) the functions of which consist wholly or mainly of devolved policing and justice functions; and

(b) in relation to which an Act of the Assembly provides, by virtue of section 21A(4), for it to be in the charge of two Northern Ireland Ministers acting jointly (the "relevant Ministers").

(2) In this paragraph "devolved policing and justice function" has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

4A Section 16A(3) shall have effect as if, for paragraph (b) (and the word "and" before it) there were substituted—

(aa) once those offices have been filled, the relevant Ministerial offices (within the meaning of Part 2 of Schedule 4A) shall be filled by applying paragraph 7(3) to (6) of that Schedule; and

(b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

Modifications of section 17

5 (1) Section 17 (Ministerial offices) has effect subject to the following modifications.

(2) Subsection (3) has effect subject to the provision of the Act of the Assembly referred to in paragraph 4(1)(b).

(3) The Ministerial offices held by the relevant Ministers (the "relevant Ministerial offices") are to count as a single Ministerial office for the purposes of subsection (4).

Section 18 not to apply to relevant Ministers

6 (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—

(a) the relevant Ministers; or

(b) the relevant Ministerial offices,

and paragraph 7 shall apply instead.

(2) But the references to Ministerial offices in—

(a) subsection (1)(c) and (d) of section 18; and

(b) subsection (5) of that section (in the definition of M),

shall be taken to include the relevant Ministerial offices.

Provisions relating to relevant Ministers

7 (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—

(a) the relevant Ministers shall (if holding office at the time) cease to hold office; and

(b) the relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

(2) The relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) before section 18(2) to (6) is applied in relation to the other Ministerial offices.

(3) The First Minister and the deputy First Minister acting jointly shall nominate two members of the Assembly to hold the relevant Ministerial offices.

(3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.

(4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with 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.

(5) If—

(a) the nomination does not take effect within a period specified in standing orders; or

(b) the nominated persons do not take up the offices for which they have been nominated within that period,

a further nomination of two members of the Assembly shall be made under sub-paragraph (3).

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

(6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial offices are filled.

(7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold a relevant Ministerial office.

(8) The relevant Ministers—

(a) shall not take up office until each of them has affirmed the terms of the pledge of office; and

(b) must take up office at the same time as each other.

(9) A relevant Minister shall cease to hold office if—

(a) he resigns by notice in writing to the First Minister and the deputy First Minister;

(b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or

(c) he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or

(d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(10) If either of the relevant Ministers ceases to hold office at any time, otherwise than by virtue of sub-paragraph (1)—

(a) the other shall also cease to hold office at that time; and

(b) the relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

(10A) If, as a result of the relevant Ministers ("the former Ministers") ceasing to hold office and the relevant Ministerial offices being filled by virtue of sub-paragraph (10)(b),—

(a) the total number of Ministerial offices held by members of a political party increases; or

(b) the total number of Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.

(10B) But sub-paragraph (10A) shall not apply if—

(a) either of the former Ministers ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and

(b) before the relevant Ministerial offices were filled, either of the conditions in sub-paragraph (10C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned.

(10C) The conditions are that—

(a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for one of the relevant Ministerial offices but consent to his nomination was not given in accordance with sub-paragraph (3A); or

(b) the member was nominated under sub-paragraph (3) for one of the relevant Ministerial offices and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.

(11) Where—

(a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and

(b) the party's period of exclusion under that provision has not come to an end,

no member of that party may be nominated under sub-paragraph (3).

[F85](12) . . . . . .

(13) In this paragraph, a reference to a period of exclusion [F86]... is, in the case of a period of exclusion [F86]... which has been extended, a reference to that period as extended.

(14) In this paragraph "nominating officer" has the same meaning as in section 18.

Textual Amendments

F85 Sch. 4A para. 7(12) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(iii)(aa)

F86 Words in Sch. 4A para. 7(13) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(iii)(bb)

PART 3

DEPARTMENT WITH ROTATION BETWEEN MINISTER AND JUNIOR MINISTER

Introduction

8 (1) This Part of this Schedule has effect in relation to a Northern Ireland department—

(a) the functions of which consist wholly or mainly of devolved policing and justice functions; and

(b) in relation to which an Act of the Assembly provides, by virtue of section 21A(5)—

(i) for it to be in the charge of a Northern Ireland Minister (the "relevant Minister") who is supported by a junior Minister (the "relevant junior Minister"); and

(ii) for the persons holding those offices to rotate at intervals determined by or under the Act.29

(2) In this paragraph "devolved policing and justice function" has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

8A Section 16A(3) shall have effect as if, for paragraph (b) (and the word "and" before it) there were substituted—

(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 3 of Schedule 4A) and the relevant junior Ministerial

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

office (within that meaning) shall be filled by applying paragraph 11(3) to (6) of that Schedule; and

(b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

Section 18 not to apply to relevant Minister

9 (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—

(a) the relevant Minister; or

(b) the Ministerial office held by the relevant Minister (the "relevant Ministerial office"),

and paragraph 11 shall apply instead.

(2) But the references to Ministerial offices in—

(a) subsection (1)(c) and (d) of section 18; and

(b) subsection (5) of that section (in the definition of M),

shall be taken to include the relevant Ministerial office.

(3) And the junior Ministerial office held by the relevant junior Minister (the "relevant junior Ministerial office") shall be taken to be a Ministerial office for the purposes of subsection (5) of that section.

Certain provisions of section 19 not to apply to relevant junior Minister

10 (1) The provisions of section 19 (junior Ministers) specified in sub-paragraph (2) shall not apply in relation to—

(a) the relevant junior Minister; or

(b) the relevant junior Ministerial office,

and paragraph 11 shall apply instead.

(2) Those provisions are—

(a) so much of subsection (1)(a) as relates to the procedures for the appointment of persons as junior Ministers;

(b) subsection (2) (so that, in particular, the relevant junior Ministerial office shall not count for the purposes of any formulae or other rules mentioned in that subsection);

(c) subsection (3); and

(d) subsection (5).

Provisions relating to relevant Minister and relevant junior Minister

11 (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—

(a) the relevant Minister and the relevant junior Minister shall (if holding office at the time) cease to hold office; and

(b) the relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

(2) The relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6)—

(a) before section 18(2) to (6) is applied in relation to the other Ministerial offices; and

(b) before the procedures specified in any determination under section 19 are applied in relation to the other junior Ministerial offices.

(3) The First Minister and the deputy First Minister acting jointly shall nominate—

(a) a member of the Assembly to hold the relevant Ministerial office; and

(b) a member of the Assembly to hold the relevant junior Ministerial office.

(3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.

(4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with 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.

(5) If—

(a) the nomination does not take effect within a period specified in standing orders; or

(b) the nominated persons do not take up the offices for which they have been nominated within that period,

a further nomination of two members of the Assembly shall be made under sub-paragraph (3).

(6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial office and the relevant junior Ministerial office are filled.

(7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold—

(a) the relevant Ministerial office; or

(b) the relevant junior Ministerial office.

(8) The relevant Minister and the relevant junior Minister—

(a) shall not take up office until each of them has affirmed the terms of the pledge of office; and

(b) must take up office at the same time as each other.

(9) The relevant Minister or the relevant junior Minister shall cease to hold office if—

(a) he resigns by notice in writing to the First Minister and the deputy First Minister;

(b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or

(c) he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or

(d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(10) Sub-paragraph (11) applies if the relevant Minister or the relevant junior Minister ceases to hold office at any time, otherwise than—

(a) by virtue of sub-paragraph (1); or

(b) by virtue of the rotation of the persons holding those offices in accordance with provision referred to in paragraph 8(1)(b)(ii).

(11) Where this sub-paragraph applies—

(a) the other shall also cease to hold office at that time; and

(b) the relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

(11A) If, as a result of the relevant Minister ("the former Minister") and the relevant junior Minister ("the former junior Minister") ceasing to hold office and the relevant Ministerial office and the relevant junior Ministerial office being filled by virtue of sub-paragraph (11)(b),—

(a) the total number of Ministerial offices or junior Ministerial offices held by members of a political party increases; or

(b) the total number of Ministerial offices or junior Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.

(11B) But sub-paragraph (11A) shall not apply if—

(a) the former Minister or the former junior Minister ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and

(b) before the relevant Ministerial office and the relevant junior Ministerial office were filled, either of the conditions in sub-paragraph (11C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned.

(11C) The conditions are that—

(a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for the appropriate office, but consent to his nomination was not given in accordance with sub-paragraph (3A); or

(b) the member was nominated under sub-paragraph (3) for the appropriate office and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.

(11D) In sub-paragraph (11C) "the appropriate office" means—

(a) in relation to a person who was a member of the political party of the nominating officer who dismissed the former Minister, the relevant Ministerial office;

(b) in relation to a person who was a member of the political party of the nominating officer who dismissed the former junior Minister, the relevant junior Ministerial office.

(12) Where—

(a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and

(b) the party's period of exclusion under that provision has not come to an end,

no member of that party may be nominated under sub-paragraph (3).

[F87](13) . . . . . .

(14) In this paragraph, a reference to a period of exclusion [F88]... is, in the case of a period of exclusion [F88]... which has been extended, a reference to that period as extended.

(15) In this paragraph "nominating officer" has the same meaning as in section 18.

Textual Amendments

F87 Sch. 4A para. 11(13) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(iv)(aa)

F88 Words in Sch. 4A para. 11(14) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(iv)(bb)

PART 3A

DEPARTMENT IN THE CHARGE OF MINISTER AND DEPUTY MINISTER

Introduction

11A (1) This Part of this Schedule has effect in relation to a Northern Ireland department—

(a) the functions of which consist wholly or mainly of devolved policing and justice functions; and

(b) in relation to which an Act of the Assembly provides, by virtue of section 21A(5A)—

(i) for it to be in the charge of a Northern Ireland Minister (the "relevant Minister") elected by the Assembly; and

(ii) for that Minister to be supported by a deputy Minister (the "deputy Minister") elected by the Assembly.

(2) In this paragraph "devolved policing and justice function" has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

11B (1) Section 16A shall have effect subject to the following modifications.

(2) Subsection (2) shall have effect as if, at the end there were inserted "; and the deputy Minister (within the meaning of Part 3A of Schedule 4A) shall cease to hold office."

(3) Subsection (3) shall have effect as if, for paragraph (b) (and the word "and" before it) there were substituted—

(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 3A of Schedule 4A) and the deputy Ministerial office (within that meaning) shall be filled by applying paragraph 11E(2)(b) and (3) to (8) of that Schedule; and

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

(b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

Section 18 not to apply to relevant Minister

11C (1) Subject to sub-paragraphs (2) to (5), section 18 (Northern Ireland Ministers) shall not apply in relation to—

(a) the relevant Minister; or

(b) the Ministerial office held by the relevant Minister (the "relevant Ministerial office"),

and paragraphs 11E to 11G shall apply instead.

(2) The references to Ministerial offices in subsection (1)(c) and (d) of section 18 shall be taken to include the relevant Ministerial office.

(3) In the application of section 18(5) to a political party which is entitled to two or more Ministerial offices, the reference to Ministerial offices (in the definition of M)—

(a) at any time when the number of Ministerial offices held by members of the party (apart from the relevant Ministerial office) is nil, shall be taken not to include the relevant Ministerial office; but

(b) at any time when the number of Ministerial offices held by members of the party (apart from the relevant Ministerial office) is one or more, shall be taken to include the relevant Ministerial office.

(4) In the application of section 18(5) to any other political party, that reference to Ministerial offices shall be taken to include the relevant Ministerial office.

(5) For the purposes of this paragraph, a political party is entitled to two or more Ministerial offices if the nominating officer of the party would be entitled to nominate persons to hold two or more Ministerial offices under section 18, assuming that—

(a) on each occasion on which a nominating officer of a political party is entitled to exercise the power conferred by section 18(2), he does so within the period mentioned in section 18(3)(a);

(b) the nominated person, in each case, takes up the selected Ministerial office within that period; and

(c) the reference in section 18(5) to Ministerial offices (in the definition of M) is taken to include the relevant Ministerial office.

Section 19 not to apply to deputy Minister

11D (1) The deputy Minister is to be treated for the purposes of this Act as if he were a junior Minister, but the provisions of section 19 (junior Ministers) shall not apply in relation to—

(a) him; or

(b) the office held by him (the "deputy Ministerial office"),

(so that, in particular, the deputy Ministerial office shall not count for the purposes of any formulae or other rules mentioned in section 19(2)); and the following provisions of this Part of this Schedule shall apply instead.

(2) The functions exercisable by virtue of the deputy Ministerial office shall be those determined in relation to that office by the relevant Minister and the deputy Minister acting jointly.

(3) The relevant Minister and the deputy Minister shall consult the First Minister and the deputy First Minister before making any determination under sub-paragraph (2).

Provisions relating to relevant Minister and deputy Minister

11E (1) When devolved policing and justice functions are first transferred to, or conferred on, the department mentioned in paragraph 11A, the relevant Ministerial office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.

(2) The relevant Ministerial office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8)—
- (a) before section 18(2) to (6) is applied in relation to the other Ministerial offices; and
- (b) before the procedures specified in any determination under section 19 are applied in relation to the junior Ministerial offices.

(3) Any member of the Assembly may stand as a candidate for election as—
- (a) the relevant Minister; or
- (b) the deputy Minister.

(4) But a member of the Assembly may not stand for election to either of those offices unless—
- (a) he belongs to the largest or the second largest political designation (see paragraph 11H);
- (b) he is nominated by another member of the Assembly; and
- (c) if he is a member of a political party, the nominating officer of the party consents to his nomination within a period specified in standing orders.

(5) A candidate shall not be elected to either of those offices by the Assembly without the support of—
- (a) a majority of the members voting in the election;
- (b) a majority of the designated Nationalists voting; and
- (c) a majority of the designated Unionists voting.

(6) A candidate shall not be elected to hold office as deputy Minister unless—
- (a) the relevant Ministerial office is filled; and
- (b) the candidate and the relevant Minister belong to different political designations.

(7) A person elected to the office of relevant Minister or deputy Minister shall not take up office until he has affirmed the terms of the pledge of office.

(8) If a person elected to either office does not take up the office within a period specified in standing orders, his election shall be deemed to be ineffective.

(9) The relevant Minister or the deputy Minister shall cease to hold office if—
- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
- (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution;

(c) where consent to his nomination was required under sub-paragraph (4)(c), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(10) If the relevant Minister or the deputy Minister ceases to hold office at any time, otherwise than by virtue of section 16A(2), the office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.

(11) But if—

(a) the relevant Ministerial office is filled by virtue of sub-paragraph (10); and

(b) the person appointed as the relevant Minister belongs to the same political designation as the deputy Minister,

the deputy Minister shall cease to hold office and the deputy Ministerial office shall be filled by applying sub-paragraphs (3) to (8) within a period specified in standing orders.

(12) Standing orders may make provision with respect to the holding of elections under this paragraph.

Modifications etc. (not altering text)

C8 Sch. 4A para. 11E(1) applied (with modifications) (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 8(8)** (with Sch. 1 para. 8(9))

Eligibility to become relevant Minister or deputy Minister

11F (1) The holding of office as First Minister or deputy First Minister shall not prevent a person being elected to hold—

(a) the relevant Ministerial office; or

(b) the deputy Ministerial office.

(2) Where—

(a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and

(b) the party's period of exclusion under that provision has not come to an end,

no member of that party may be nominated under paragraph 11E(4)(b).

[F89](3) . . . . . .

(4) In this paragraph, a reference to a period of exclusion [F90]... is, in the case of a period of exclusion [F90]... which has been extended, a reference to that period as extended.

Textual Amendments

F89 Sch. 4A para. 11F(3) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(v)(aa)

F90 Words in Sch. 4A para. 11F(4) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(k)(v)(bb)

Change in number of Ministerial offices held by members of a political party

11G (1) If, as a result of the relevant Minister ("the former Minister") ceasing to hold office and the relevant Ministerial office being filled by virtue of paragraph 11E(10)—

(a) the total number of Ministerial offices held by members of a political party increases; or

(b) the total number of Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.

(2) But sub-paragraph (1) shall not apply if—

(a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under paragraph 11E(9)(c); and

(b) before the relevant Ministerial office was filled, either of the conditions in sub-paragraph (3) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer.

(3) The conditions are that—

(a) another member of the Assembly sought to nominate the member under paragraph 11E(4)(b) for the relevant Ministerial office but consent to his nomination was not given in accordance with paragraph 11E(4)(c); or

(b) the member was elected to the relevant Ministerial office, but the member did not take up the office within the period specified in standing orders by virtue of paragraph 11E(8).

Interpretation

11H (1) In this Part of this Schedule "nominating officer" has the same meaning as in section 18.

(2) For the purposes of this Part of this Schedule, a member of the Assembly is to be taken—

(a) to belong to the political designation "Nationalist" if he is a designated Nationalist;

(b) to belong to the political designation "Unionist" if he is a designated Unionist;

(c) otherwise, to belong to the political designation "Other";

and the size of each of the political designations "Nationalist", "Unionist" and "Other" is to be determined in accordance with section 16C(4) and (5).

PART 4

POWER TO MAKE FURTHER MODIFICATIONS

12 (1) Her Majesty may by Order in Council make such further modifications of any enactment (whenever passed or made) as appear to Her Majesty to be necessary or expedient—

(a) in consequence of, or

(b) for giving full effect to,

an Act of the Assembly which makes provision of the kind mentioned in section 21A(3), **[**[F91](3A),**]**(4), (5) or (5A) or an Order in Council under section 21A(7C).

(2) No recommendation shall be made to Her Majesty to make an Order under this paragraph unless a draft of it has been laid before and approved by resolution of each House of Parliament.

Textual Amendments

F91 Words in Sch. 4A para. 12(1) inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 4(4)**

[[F92]13 Paragraphs 3(10), 3D(14), 7(10), 11(10) and (11) and 11E(10) of this Schedule shall have effect subject to paragraphs 2 and 3 of Schedule 12A (as those paragraphs are modified at any time by virtue of paragraph 12 of this Schedule).**]]**

Textual Amendments

F92 Sch. 4A para. 13 inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 4(5)**

SCHEDULE 5

Section 40(10).

NORTHERN IRELAND ASSEMBLY COMMISSION

Membership

1 A person appointed under standing orders made under section 40(2)(b) shall hold office until another member of the Assembly is appointed in his place, unless he previously resigns or ceases to be a member of the Assembly otherwise than by virtue of a dissolution.

Staff

2 (1) The Commission may appoint staff.

(2) The persons appointed by the Commission are referred to in this Act as the staff of the Assembly.

(3) It is for the Commission to determine the terms and conditions of appointment of the staff of the Assembly, including arrangements for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a member of the staff of the Assembly.

(4) Accordingly, the Commission may—

(a) make contributions or payments towards provision for such pensions, gratuities or allowances;

(b) establish and administer one or more pension schemes.

(5) The power conferred by sub-paragraph (1) includes power to make arrangements for administrative, secretarial or other assistance to be provided for the Commission by

officers of the civil service of Northern Ireland or the civil service; and the reference in sub-paragraph (2) to persons appointed by the Commission shall be construed accordingly.

Powers

3 (1) Subject to sub-paragraph (4), the Commission may do anything which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions.

(2) That includes, in particular—

(a) holding property;

(b) charging for goods or services;

(c) entering into contracts;

(d) investing sums not immediately required in relation to the discharge of its functions; and

(e) accepting gifts.

(3) The Commission may sell goods or provide services, and may make arrangements for the sale of goods or provision of services, to the public.

(4) The Commission may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

(5) The Commission may borrow money only under sub-paragraph (4) and may borrow under that sub-paragraph only with the special or general approval of the Assembly.

Delegation

4 The Commission may delegate any of its functions to the Presiding Officer or a member of the staff of the Assembly.

Proceedings and business

5 (1) The validity of any acts of the Commission shall not be affected by any vacancy among the members, or by any defect in the appointment, or qualification for membership, of any member.

(2) The Commission may determine its own procedure.

(3) The Presiding Officer shall preside at meetings of the Commission, but the Commission may appoint another of its members to preside if the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act.

Crown status

6 (1) Her Majesty may by Order in Council provide for the Commission to be treated to any extent as a Crown body for the purposes of any enactment.

(2) In particular, the Order may for the purposes of any enactment provide—

(a) for employment under the Commission to be treated as employment under the Commission as a Crown body;

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

(b) for land held, used or managed by the Commission, or operations carried out by or on behalf of the Commission, to be treated (as the case may be) as land held, used or managed, or operations carried out by or on behalf of, the Commission as a Crown body.

(3) For the purposes of this paragraph, "Crown body" means a body which is the servant or agent of the Crown, and includes a government department.

(4) A statutory instrument containing an Order in Council under this paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament.

SCHEDULE 6

Section 41(3).

STANDING ORDERS: FURTHER PROVISION

Preservation of order

1 (1) The standing orders shall include provision for preserving order in the proceedings of the Assembly, including provision for—

(a) preventing conduct which would constitute a criminal offence or contempt of court; and

(b) a sub judice rule.

(2) Such provision may provide for excluding a member of the Assembly from proceedings and for withdrawing his rights and privileges as a member for the period of his exclusion.

Proceedings to be in public

2 (1) The standing orders shall include provision requiring the proceedings of the Assembly to be held in public, except in such circumstances as the standing orders may provide.

(2) The standing orders may include provision as to the conditions to be complied with by any member of the public attending the proceedings, including provision for excluding from the proceedings any member of the public who does not comply with those conditions.

Reporting and publishing proceedings

3 The standing orders shall include provision for reporting the proceedings of the Assembly and for publishing the reports.

Committees

4 (1) The standing orders shall include provision for ensuring that, in appointing members to committees, regard is had to the balance of parties in the Assembly.

(2) The standing orders may include provision for excluding from the proceedings of a committee a member of the Assembly who is not a member of the committee.

[F93 *Votes in vacancy*

Textual Amendments

F93 Sch. 6 para. 5 and preceding cross-heading inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 17**, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

5 The standing orders may include provision enabling a right to vote in the Assembly which could have been exercised but for a vacancy in the membership of the Assembly to be exercisable in such manner as is so provided.**]**

[F94 SCHEDULE 6A

Section 56A

EU WITHDRAWAL: DEMOCRATIC CONSENT PROCESS

Textual Amendments

F94 Sch. 6A inserted (10.12.2020) by The Protocol on Ireland/Northern Ireland (Democratic Consent Process) (EU Exit) Regulations 2020 (S.I. 2020/1500), regs. 1(2), **2(3)**

PART 1

GENERAL

Introduction

1. (1) Part 2 of this Schedule requires the Secretary of State to initiate the democratic consent process in relation to each new continuation period.

(2) Part 3 of this Schedule establishes, for the purposes of Article 18 of the Protocol as read with the unilateral Declaration, the default democratic consent process referred to in paragraphs 3 and 4 of the unilateral Declaration.

(3) Part 4 of this Schedule establishes, for the purposes of Article 18 of the Protocol as read with the unilateral Declaration, the alternative democratic consent process referred to in paragraphs 5 and 6 of the unilateral Declaration.

(4) Part 5 of this Schedule makes provision about procedural matters and the outcome of the democratic consent process.

(5) Part 6 of this Schedule makes provision about an independent review into the functioning of the Protocol.

(6) To the extent that the standing orders of the Assembly are inconsistent with this Schedule, this Schedule (rather than the standing orders) is to have effect.

(7) For the purposes of this Schedule, a motion that is tabled and then withdrawn is to be regarded, at times after its withdrawal, as not having been tabled.

(8) In this Schedule—

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

"alternative democratic consent process" means the democratic consent process established by Part 4 of this Schedule;

"default democratic consent process" means the democratic consent process established by Part 3 of this Schedule;

"democratic consent process" means the process by which—

(a) democratic consent in Northern Ireland to the continued application of Articles 5 to 10 of the Protocol is to be sought, and

(b) a decision expressing that democratic consent is to be made;

"notification of the start of the democratic consent process" has the meaning given in paragraph 4;

"Protocol" means the Protocol on Ireland/Northern Ireland to the EU withdrawal agreement;

"unilateral Declaration" means the declaration by Her Majesty's Government concerning the operation of the 'Democratic consent in Northern Ireland' provision of the Protocol made on 17 October 2019.

Meaning of "consent resolution" and effect if consent resolution rejected

2. (1) In this Schedule "consent resolution" means a resolution of the Assembly in this form—

"That Articles 5 to 10 of the Protocol on Ireland/Northern Ireland to the EU withdrawal agreement should continue to apply during the new continuation period (within the meaning of Schedule 6A to the Northern Ireland Act 1998)."

(2) This Schedule ceases to apply at the end of a particular current period if—

(a) by that time, the Assembly has decided the question on a motion for a consent resolution which relates to the new continuation period, but

(b) the Assembly did not pass the consent resolution.

Meaning of "continuation period", "current period" etc

3. (1) In this Schedule—

"continuation period" means—

(a) the period of four years or eight years (as determined in accordance with sub-paragraph (2)) that begins with the day that follows the last day of the initial period;

(b) each subsequent period of four years or eight years (as determined in accordance with sub-paragraph (2)) that begins with the day that follows the last day of the preceding continuation period;

"current period", in relation to a new continuation period, means—

(a) the initial period, in the case where that period immediately precedes the new continuation period, or

(b) the continuation period which immediately precedes the new continuation period, in any other case;

"initial period" means the period of four years that begins with the day that follows IP completion day;

"new continuation period" means, at any particular time, the first continuation period that is to begin after that time.

(2) The duration of a continuation period is to be—

(a) four years if the consent resolution which relates to that continuation period was passed by a majority of the members voting but not with cross-community support;

(b) eight years if the consent resolution which relates to that continuation period was passed with cross-community support.

(3) In this Schedule, a period set out in an entry in the first column of this table has the meaning given in the corresponding entry in the second column of the table—

Period	*Meaning*
"final two months of the current period"	the period of two months ending with the last day of that current period
"final one month of the current period"	the period of one month ending with the last day of that current period
"final 25 days of the current period"	the period of 25 days ending with the last day of that current period
"final 15 days of the current period"	the period of 15 days ending with the last day of that current period
"final 5 days of the current period"	the period of 5 days ending with the last day of that current period

PART 2

DUTY OF SECRETARY OF STATE TO INITIATE THE DEMOCRATIC CONSENT PROCESS

Duty to give notification of the start of the democratic consent process

4. (1) The Secretary of State must give a notification of the start of the democratic consent process in relation to each new continuation period.

(2) The notification relating to a new continuation period must be given on the day immediately before the start of the final two months of the current period.

(3) The notification must be given in accordance with Part 3 (if that Part is applicable) or Part 4 (if that Part is applicable).

(4) The "notification of the start of the democratic consent process" that relates to a new continuation period is a written notification that—

(a) states the date of the first day of the new continuation period, and

(b) states that, before that date, Her Majesty's Government in the United Kingdom must notify the European Commission of the outcome of the democratic consent process established by this Schedule in relation to the continued application of Articles 5 to 10 of the Protocol during the new continuation period.

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

PART 3

DEFAULT DEMOCRATIC CONSENT PROCESS

Application

5. This Part applies if the First Minister and the deputy First Minister hold office (including if another Northern Ireland Minister is exercising the functions of either office in accordance with section 16A(11)) at the beginning of the day on which the Secretary of State is required to give the notification of the start of the democratic consent process in relation to a new continuation period.

Giving the notification of the start of the democratic consent process

6. (1) The Secretary of State must give the notification of the start of the democratic consent process to—
   (a) the First Minister and the deputy First Minister, and
   (b) the Presiding Officer.

   (2) The notification of the start of the democratic consent process must state that the default democratic consent process applies.

Presiding Officer to inform members of the Assembly

7. On receipt of a notification of the start of the democratic consent process under this Part, the Presiding Officer must take such steps as the Presiding Officer considers necessary to bring the notification to the attention of the members of the Assembly.

Consent resolution: motion by First Minister and deputy First Minister

8. (1) This paragraph applies where the Secretary of State gives a notification of the start of the democratic consent process under this Part in relation to a new continuation period.

   (2) Before the start of the final one month of the current period, the First Minister and the deputy First Minister acting jointly may table notice of a motion for a consent resolution which relates to the new continuation period.

   (3) No other member of the Assembly may table notice of a motion for a consent resolution which relates to the new continuation period before the final one month of the current period.

   (4) If they have tabled notice of a motion under this paragraph, the First Minister and the deputy First Minister acting jointly must provide the members of the Assembly with such explanatory materials as it is reasonable to provide in order to assist them when deciding the question.

Consent resolution: motion by any member of the Assembly

9. (1) This paragraph applies where—
   (a) the Secretary of State gives a notification of the democratic consent process under this Part in relation to a new continuation period, and

(b) before the start of the final one month of the current period, the First Minister and the deputy First Minister acting jointly have not tabled notice of a motion for a consent resolution which relates to the new continuation period.

(2) Before the start of the final 25 days of the current period, any member of the Assembly may table notice of a motion for a consent resolution which relates to the new continuation period.

(3) Sub-paragraph (2) does not prevent any other members of the Assembly—

(a) from adding their names to the notice of the motion that has been tabled, or

(b) having done so, from moving the motion,

in accordance with the standing orders or practice of the Assembly.

(4) If a member of the Assembly has tabled notice of a motion for a consent resolution in accordance with sub-paragraph (2), the Secretary of State must take reasonable steps to provide the members of the Assembly with such explanatory materials as it is reasonable to provide in order to assist them when deciding the question.

Consent resolution: consideration of motion

10. (1) This paragraph applies if—

(a) notice of a motion for a consent resolution which relates to the new continuation period has been tabled by the First Minister and deputy First Minister acting jointly in accordance with paragraph 8(2), or

(b) notice of a motion for a consent resolution which relates to the new continuation period has been tabled by a member of the Assembly in accordance with paragraph 9(2),

and, before the start of the final 15 days of the current period, the question on that motion is not decided by the Assembly.

(2) The Assembly must sit at noon on the required sitting day (whether or not the Assembly would otherwise be sitting on that day or at that time, and whether or not that day falls during a recess).

(3) The motion for the consent resolution is to be proceeded with in the Assembly on the required sitting day—

(a) as the first business on that day; or

(b) where the election of the Presiding Officer or any deputy or deputies is, by virtue of this Act, any other enactment or the standing orders of the Assembly, required to be the first business on that day, as the first business after the election of the Presiding Officer or deputy or deputies.

(4) The Presiding Officer must move the motion for the consent resolution if no other member of the Assembly moves it when it is required to be proceeded with in accordance with sub-paragraph (3).

(5) The question on the motion for the consent resolution (if not already put) is to be put—

(a) at 6:00pm on the required sitting day, if the motion is proceeded with as the first business on the required sitting day (in accordance with sub-paragraph (3)(a));

(b) six hours after the motion is moved, if the motion is proceeded with as the first business after the election of the Presiding Officer or the deputy or

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

deputies on the required sitting day (in accordance with sub-paragraph (3)(b)).

(6) The Assembly may not be adjourned on the required sitting day until after the declaration of the result of the division or vote on the question on the motion for the consent resolution.

(7) Accordingly, no motion for the adjournment of the debate on the motion for the consent resolution, or of the Assembly, may be taken on the required sitting day until after the declaration of that result.

(8) If the question on the motion for the consent resolution is not put as required by sub-paragraph (5), and is not put at any later time on the required sitting day, then—

(a) the earliest day after that day that is not an excluded day is to be regarded as the required sitting day for the purposes of this paragraph, and

(b) sub-paragraphs (2) to (7) and this sub-paragraph are to apply again accordingly.

(9) In this paragraph—

"excluded day" means—

(a) Saturday,

(b) Sunday,

(c) Christmas Day,

(d) Good Friday, and

(e) any day that is a public holiday in Northern Ireland;

"required sitting day" means the earliest day during the final 15 days of the current period that is not an excluded day.

PART 4

ALTERNATIVE DEMOCRATIC CONSENT PROCESS

Application

11. This Part applies if the offices of the First Minister and the deputy First Minister are vacant (and their functions are not otherwise being exercised by another Northern Ireland Minister in accordance with section 16A(11)) at the beginning of the day on which the Secretary of State is required to give the notification of the start of the democratic consent process in relation to a new continuation period.

Giving the notification of the start of the democratic consent process

12. (1) The Secretary of State must give the notification of the start of the democratic consent process to —

(a) the Presiding Officer, and

(b) the clerk to the Assembly.

(2) The notification of the start of the democratic consent process must state that the alternative democratic consent process applies.

(3) As soon as practicable after giving notice under sub-paragraph (1), the Secretary of State must take reasonable steps to provide the members of the Assembly with

such explanatory materials as it is reasonable to provide in order to assist them when deciding the question on the motion for a consent resolution.

(4) In this paragraph "the clerk to the Assembly" means the person who holds or exercises the functions of that office in accordance with the standing orders or practice of the Assembly.

Presiding Officer to inform members of the Assembly

13. On receipt of a notification of the start of the democratic consent process under this Part, the Presiding Officer must take such steps as the Presiding Officer considers necessary to bring the notification to the attention of the members of the Assembly.

Consent resolution: motion by a member of the Assembly

14. (1) Where the Secretary of State has given a notification of the start of the democratic consent process under this Part in relation to a new continuation period, any member of the Assembly may table notice of a motion for a consent resolution which relates to the new continuation period.

(2) Sub-paragraph (1) does not prevent any other members of the Assembly—

(a) from adding their names to the notice of the motion that has been tabled, or

(b) having done so, from moving the motion,

in accordance with the standing orders or practice of the Assembly.

Consent resolution: requirement to consider motion

15. (1) This paragraph applies in either of the following cases.

(2) Case A is where—

(a) the Secretary of State gives a notification of the start of the democratic consent process under this Part in relation to a new continuation period, and

(b) before the start of the final one month of the current period, no member of the Assembly has tabled notice of a motion for a consent resolution which relates to the new continuation period.

(3) Case B is where—

(a) the Secretary of State gives a notification of the start of the democratic consent process under this Part in relation to a new continuation period,

(b) before the start of the final one month of the current period, a member of the Assembly tables notice of a motion for a consent resolution which relates to the new continuation period, and

(c) before the start of the final 25 days of the current period, the question on that motion is not decided by the Assembly.

(4) The Assembly must sit at noon on the required sitting day (whether or not the Assembly would otherwise be sitting on that day, or at that time, and whether or not that day falls during a recess).

(5) If, before the start of the required sitting day, a member of the Assembly has not tabled notice of a motion for a consent resolution which relates to the new continuation period, the Presiding Officer must table such a motion.

(6) Sub-paragraph (5) does not prevent any other members of the Assembly—

(a) from adding their names to the notice of the motion that has been tabled as soon as practicable on that day, or

(b) having done so, from moving the motion,

in accordance with the standing orders or practice of the Assembly.

(7) The fact that a motion tabled by the Presiding Officer in accordance with sub-paragraph (5) is tabled on the required sitting day does not prevent the motion from being proceeded with on that day in accordance with this paragraph.

(8) The motion for the consent resolution is to be proceeded with in the Assembly on the required sitting day—

(a) as the first business on that day; or

(b) where the election of the Presiding Officer or any deputy or deputies is, by virtue of this Act, any other enactment or the standing orders of the Assembly, required to be the first business on that day, as the first business after the election of the Presiding Officer or deputy or deputies.

(9) The Presiding Officer must move the motion for the consent resolution if no other member of the Assembly moves it when it is required to be proceeded with in accordance with sub-paragraph (8).

(10) The question on the motion for the consent resolution (if not already put) is to be put—

(a) at 6:00pm on the required sitting day, if the motion is proceeded with as the first business on the required sitting day (in accordance with sub-paragraph (8)(a));

(b) six hours after the motion is moved, if the motion is proceeded with as the first business after the election of the Presiding Officer or the deputy or deputies on the required sitting day (in accordance with sub-paragraph (8)(b)).

(11) The Assembly may not be adjourned on the required sitting day until after the declaration of the result of the division or vote on the question on the motion for the consent resolution.

(12) Accordingly, no motion for the adjournment of the debate on the motion for the consent resolution, or of the Assembly, may be taken on the required sitting day until after the declaration of that result.

(13) If the question on the motion for the consent resolution is not put as required by sub-paragraph (10), and is not put at any later time on the required sitting day, then—

(a) the earliest day after that day that is not an excluded day is to be regarded as the required sitting day for the purposes of this paragraph, and

(b) sub-paragraphs (4) to (12) and this sub-paragraph are to apply again accordingly.

(14) This paragraph has effect subject to paragraph 16.

(15) In this paragraph and paragraph 16—

"excluded day" means—

(a) Saturday,

(b) Sunday,

(c) Christmas Day,

(d) Good Friday, and

(e) any day that is a public holiday in Northern Ireland;

"required sitting day" means the earliest day during the final 25 days of the current period that is not an excluded day.

Election of an interim Presiding Officer

16. (1) This paragraph applies if on the required sitting day—

(a) the election of a Presiding Officer or any deputy or deputies is, by virtue of this Act, any other enactment or the standing orders of the Assembly, required to be the first business on that day, and

(b) the Assembly does not elect from among its members a Presiding Officer or any deputy or deputies.

(2) The Assembly must elect from among its members an interim Presiding Officer.

(3) Neither section 39 nor section 42 applies to the election of the interim Presiding Officer (nor is the election of any deputy or deputies required).

(4) Accordingly, the interim Presiding Officer is to be elected by a majority of those members of the Assembly voting.

(5) The proceedings for the election of an interim Presiding Officer are to be chaired by the oldest member of the Assembly present.

(6) But if the oldest member present is also seeking election as interim Presiding Officer then the next oldest member present is to chair the proceedings instead, and so on.

(7) An interim Presiding Officer—

(a) holds office only for the purposes of business relating to a motion for a consent resolution which relates to the new continuation period, and

(b) ceases to hold office once written notification of the matters mentioned in paragraph 19(2) has been given to the Secretary of State.

(8) Standing orders may make further provision in connection with the election of an interim Presiding Officer.

(9) In its application in a case where this paragraph applies, paragraph 15 has effect as if—

(a) the following were substituted for paragraph 15(8)—

"(8) The motion for the consent resolution is to be proceeded with as the first business after the election of the interim Presiding Officer.";

(b) the reference to the Presiding Officer in paragraph 15(9) were a reference to the interim Presiding Officer;

(c) the following were substituted for paragraph 15(10)—

"(10) The question on the motion for the consent resolution (if not already put) is to be put six hours after the motion is moved.".

(10) In sub-paragraph (1) the reference to "the required sitting day" is to the first such day.

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

PART 5

PROCEDURAL MATTERS AND OUTCOME

Application

17. This Part applies in relation to any motion for a consent resolution whether the default democratic consent process or the alternative democratic consent process is applicable.

Procedural matters relating to motions for consent resolutions

18. (1) A motion for a consent resolution is to be decided without amendment.

(2) The question on a motion for a consent resolution is to be decided by a majority of those members of the Assembly voting.

(3) Where a consent resolution is passed by a majority of the members voting, the Presiding Officer must—

(a) determine whether the resolution has also been passed with cross-community support; and

(b) announce the determination of that question.

(4) For provision about the consequences of a consent resolution also being passed with cross-community support, see paragraph 3(2).

(5) Section 42 does not apply in relation to a motion for a consent resolution.

(6) Once the Assembly has decided the question on a motion for a consent resolution which relates to a continuation period (whether the Assembly has passed the motion or not), further notice of a motion for a consent resolution which relates to that continuation period may not be tabled, or if already tabled, may not be proceeded with.

(7) A reference in this paragraph or in paragraph 19 or 20 to the Presiding Officer has effect as a reference to the interim Presiding Officer if a person is holding that office in accordance with paragraph 16.

Outcome of process: Presiding Officer to notify Secretary of State

19. (1) This paragraph applies when the Assembly decides the question on a motion for a consent resolution which relates to a new continuation period.

(2) The Presiding Officer must give the Secretary of State written notification of the following matters—

(a) whether or not the Assembly passed the consent resolution;

(b) if the Assembly passed the consent resolution, whether the Assembly passed it—

(i) by a majority of the members voting but not with cross-community support, or

(ii) with cross-community support.

(3) The notification must be given before the start of the final 5 days of the current period.

Outcome of process: Secretary of State to notify European Commission

20. (1) This paragraph applies when the Presiding Officer gives the Secretary of State the notification required by paragraph 19 in relation to a motion for a consent resolution which relates to a new continuation period.

(2) The Secretary of State must give the European Commission written notification of the following matters—

(a) whether or not the Assembly passed the consent resolution;

(b) if the Assembly passed the consent resolution, whether the Assembly passed it—

(i) by a majority of the members voting but not with cross-community support, or

(ii) with cross-community support.

(3) The notification must be given on or before the final day of the current period.

PART 6

INDEPENDENT REVIEW

Independent review into the functioning of the Protocol

21. (1) This paragraph applies where the Presiding Officer notifies the Secretary of State that the Assembly has passed a consent resolution by a majority of the members voting but not with cross-community support.

(2) **[**[F95]Within one month of receiving the notification, the**]** Secretary of State must commission an independent review into the functioning of the Protocol in accordance with paragraphs 7 to 9 of the unilateral Declaration.

[F96]**[**(2A) The review may include consideration of any effect of the Windsor Framework in the withdrawal agreement on—

(a) the constitutional status of Northern Ireland, and

(b) the operation of the single market in goods and services between Northern Ireland and the rest of the United Kingdom.

(2B) The person commissioned by the Secretary of State to carry out the review must provide to the Secretary of State a report of its conclusions no later than six months after having been commissioned.

(2C) Upon receipt of a report by the Secretary of State in accordance with sub-paragraph (2B), a Minister of the Crown must—

(a) lay a copy of that report before Parliament, and

(b) transmit a copy of that report to the Presiding Officer.

(2D) The Presiding Officer must lay before the Assembly a copy of any report received in accordance with sub-paragraph (2C)(b).

(2E) A Minister of the Crown must raise in the Joint Committee any issues raised or recommendations made by a report received by the Secretary of State in accordance with sub-paragraph (2B).

(2F) No later than six months after receiving the report, the Secretary of State must publish a written response to any recommendations made by that report.

(2G) A response published in accordance with sub-paragraph (2F) must contain information about the Secretary of State's response to any representations made about the report—

(a) by either House of Parliament or a committee thereof, or

(b) by the Assembly.**]**

(3) The reference in **[**[F97]sub-paragraph (1)**]** to the Presiding Officer has effect as a reference to the interim Presiding Officer if a person is holding that office in accordance with paragraph 16.

[F98](4) **[** In this paragraph, "Joint Committee" has the same meaning as in the European Union (Withdrawal) Act 2018.**]]**

Textual Amendments

F95 Words in Sch. 6A para. 21(2) substituted (20.2.2024) by The Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 (S.I. 2024/164), regs. 1(2), **4(2)(a)**

F96 Sch. 6A para. 21(2A)-(2G) inserted (20.2.2024) by The Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 (S.I. 2024/164), regs. 1(2), **4(2)(b)**

F97 Words in Sch. 6A para. 21(3) substituted (20.2.2024) by The Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 (S.I. 2024/164), regs. 1(2), **4(2)(c)**

F98 Sch. 6A para. 21(4) inserted (20.2.2024) by The Windsor Framework (Constitutional Status of Northern Ireland) Regulations 2024 (S.I. 2024/164), regs. 1(2), **4(2)(d)**

[[F99]SCHEDULE 6B

Section 56B

EU WITHDRAWAL: WINDSOR FRAMEWORK DEMOCRATIC SCRUTINY

Textual Amendments

F99 Sch. 6B inserted (2.2.2024) by The Windsor Framework (Democratic Scrutiny) Regulations 2024 (S.I. 2024/118), reg. 1(2), **Sch.**

PART 1

GENERAL

Introduction and Interpretation

1. (1) Part 2 of this Schedule establishes a new Windsor Framework Democratic Scrutiny Committee of the Assembly.

(2) Part 3 of this Schedule sets out, for the purposes of Article 13 of the Windsor Framework, the process by which members of the Assembly may seek to prevent the application of a replacement EU act under the Framework.

(3) Part 4 of this Schedule makes provision relating to the position of the United Kingdom in the Joint Committee with respect to the proposed application of EU acts under the Windsor Framework.

(4) To the extent that the standing orders of the Assembly are inconsistent with this Schedule, this Schedule (rather than the standing orders) is to have effect.

(5) For the purposes of this Schedule, a motion that is tabled and then withdrawn is to be regarded, at times after its withdrawal, as not having been tabled.

(6) In this Schedule—

"Article 13(3a) declaration" means the unilateral declaration by His Majesty's Government concerning the involvement of the institutions of the 1998 Agreement as annexed to the decision of the Joint Committee which lays down arrangements relating to the Windsor Framework;

"clerk to the Assembly" has the same meaning as in Schedule 6A;

"Committee" means the committee established by paragraph 2;

"Framework" means the Windsor Framework;

"Joint Committee" has the same meaning as in the European Union (Withdrawal) Act 2018;

"new EU act" means a new EU instrument which has been notified to the United Kingdom in accordance with Article 13(4) of the Windsor Framework;

"replacement EU act" means an EU instrument which amends or replaces any of the EU instruments referred to in the third subparagraph of Article 5(1) of the Windsor Framework, the first indent of heading 1 of Annex 2 to the Framework or headings 7 to 47 of Annex 2 to the Framework;

"scrutiny period" means the period of two months beginning with the day on which a replacement EU act is published;

"Windsor Framework" has the same meaning as in the joint declaration of the United Kingdom of Great Britain and Northern Ireland and the European Union in the Joint Committee which reflects the arrangements in the decision of that Joint Committee laying down the arrangements relating to the Windsor Framework.

PART 2

WINDSOR FRAMEWORK DEMOCRATIC SCRUTINY COMMITTEE

Windsor Framework Democratic Scrutiny Committee

2. A committee of the Assembly, to be known as the Windsor Framework Democratic Scrutiny Committee, is established.

Purpose and functions of the Committee

3. (1) The purpose of the Committee is to assist with the observation and implementation of Article 13(3a) and (4) of the Framework.

(2) In order to fulfil its purpose, the functions of the Committee include—

(a) the examination and consideration of new EU acts and replacement EU acts,

(b) the conduct of inquiries and publication of reports in relation to replacement EU acts,

(c) engagement with businesses, civil society and others as appropriate in relation to replacement EU acts,

(d) engagement with His Majesty's Government in the United Kingdom in relation to replacement EU acts,

(e) engagement with Ministers and Northern Ireland departments in relation to replacement EU acts,

(f) the collation and publication of evidence collected as part of its other activities, and

(g) dealing with other matters (including legislative proposals which may become new EU acts or replacement EU acts) which the Committee considers to be connected with its purpose or other functions.

Membership of the Committee

4. Membership of the Committee is to be determined in accordance with the standing orders of the Assembly which are to apply in the same way as they apply to a standing committee.

Powers of the Committee

5. (1) Subject to sub-paragraph (2), the power in section 44(1) may be exercised by the Committee as if the Committee had been expressly authorised to do so in accordance with section 44(6).

(2) Subsection (2) of section 44 has effect in relation to the Committee as if for paragraphs (a) and (b) there were substituted "the purpose or functions of the Windsor Framework Democratic Scrutiny Committee".

Notification of the Committee

6. (1) The Committee may be notified under this paragraph if—

(a) a new EU act or a replacement EU act has been proposed by the European Commission, or

(b) a replacement EU act has been published by the European Union.

(2) A notification is made under sub-paragraph (1) if His Majesty's government in the United Kingdom provides the notification to—

(a) the chair of the Committee,

(b) the clerk of the Committee,

(c) the clerk to the Assembly, or

(d) the Presiding Officer.

Committee Monitoring

7. (1) Following receipt of a notification under paragraph 6(1)(a), the Committee may monitor the progress of the proposed new EU act or replacement EU act and publish any interim reports which the Committee considers appropriate.

(2) If the Committee decides to monitor the progress of a proposed new EU act or replacement EU act in accordance with sub-paragraph (1), the Committee may also decide to hold an inquiry into that EU act.

Committee Inquiries: Initiation

8. (1) Following receipt of a notification under paragraph 6(1)(b) the Committee must decide—
   (a) whether or not to hold an inquiry into the replacement EU act which was the subject of the notification, or
   (b) whether or not to continue an inquiry begun in accordance with paragraph 7(2) in relation to the replacement EU act which was the subject of the notification.

   (2) In reaching a decision under sub-paragraph (1), the Committee—
   (a) must have regard to whether it appears likely that the replacement EU act–
   (i) significantly differs (in whole or in part) from the content or scope of the EU instrument which it amends or replaces, and
   (ii) would have a significant impact specific to everyday life of communities in Northern Ireland in a way that is liable to persist, and
   (b) may have regard to any other matters the Committee considers appropriate.

   (3) A decision under sub-paragraph (1) must be made no later than five working days after the day on which the notification is made.

   (4) The Committee must publish any decision made in accordance with this paragraph.

   (5) A failure to make a decision in accordance with this paragraph is to be treated as a decision not to hold an inquiry or not to continue an inquiry which had already begun, as the case may be.

Committee Inquiries: Procedure

9. (1) A Committee inquiry held in accordance with paragraph 7 or 8 may consider any matters which the Committee considers appropriate.

   (2) In conducting an inquiry, the Committee must seek substantive discussion and engagement with—
   (a) His Majesty's government in the United Kingdom,
   (b) a Minister or Northern Ireland department, and
   (c) to the extent the Committee considers appropriate, representatives of businesses and civil society affected by the new EU act or replacement EU act (or who would be so affected if the act enters into force).

   (3) A Minister or Northern Ireland department must comply with any reasonable request for information made by the Committee which is relevant to an inquiry of that Committee.

Committee Inquiries: Reports

10. (1) The Committee must publish a report of the conclusions of an inquiry into a replacement EU act no later than fifteen working days before the end of the scrutiny period that relates to that EU act.

(2) A report issued in accordance with sub-paragraph (1) may include any information which the Committee considers appropriate.

(3) The Committee must also publish the following no later than fifteen working days before the end of the scrutiny period—

(a) minutes of all Committee meetings relevant to the inquiry,

(b) minutes of any discussion or engagement conducted in accordance with paragraph 9(2), and

(c) any other evidence collected in the course of the inquiry (whether or not such evidence was relied upon for the production of any report).

(4) Minutes and evidence published in accordance with sub-paragraph (3) may be subject to such redactions or omissions as the Committee considers appropriate.

PART 3

PROCEDURE BY WHICH MEMBERS OF THE ASSEMBLY MAY SEEK TO PREVENT THE APPLICATION OF A REPLACEMENT EU ACT

Initiating the procedure to prevent the application of a replacement EU act

11. (1) The process under this Part of this Schedule for members of the Assembly to seek to prevent a replacement EU act from applying under the Framework is initiated if the Presiding Officer is provided with a written notification which gives detailed reasons for seeking to prevent the application of that EU act with reference to the requirements in paragraph 1(c) of the Article 13(3a) declaration.

(2) A notification made under sub-paragraph (1) must be agreed to by no fewer than 30 members of the Assembly and these must include—

(a) one member who belongs to a political party and one member who belongs to a different political party,

(b) one member who belongs to a political party and one member who does not belong to a political party and did not belong to a political party when returned as a member of the Assembly, or

(c) two members who do not belong to a political party and did not belong to a political party when returned as members of the Assembly,

but must not include the Presiding Officer or a deputy Presiding Officer.

(3) A notification under this paragraph must be provided to the Presiding Officer no later than ten working days before the end of the scrutiny period.

Time period for making the notification

12. Upon receipt of a notification which satisfies the conditions in paragraph 11(2) and (3), the Presiding Officer must provide that notification to the Secretary of State as soon as possible and no later than nine working days before the end of the scrutiny period.

Duty to publish the notification

13. (1) The Presiding Officer must publish a notification provided to the Secretary of State in accordance with paragraph 12.

(2) A notification published in accordance with this paragraph is published under the Assembly's authority for the purposes of section 50(1)(b).

Consideration of the validity of the notification

14. (1) Before the end of the scrutiny period, the Secretary of State must accept a notification if the Secretary of State considers that it meets the requirements in—

(a) paragraphs 11 to 13 of this Schedule,

(b) Article 13(3a) of the Framework, and

(c) the Article 13(3a) declaration.

(2) In reaching a decision under sub-paragraph (1), the possibility of the European Union taking remedial measures in accordance with Article 13(4) of the Framework is not a relevant consideration.

Duty to notify accepted notifications

15. Before the end of the scrutiny period, a Minister of the Crown must give the European Commission written notification in accordance with the Framework of any notification from members of the Assembly which has been accepted by the Secretary of State.

Duty to give reasons for a decision not to accept a notification

16. (1) If the Secretary of State decides not to accept a notification, the Secretary of State must, without undue delay, provide written reasons to the Presiding Officer as to why it is considered that the requirements set out in paragraph 14(1)(a) to (c) have not been met.

(2) Such a decision does not prevent a separate notification from being made in relation to the same replacement EU act in accordance with this Part of this Schedule.

(3) The Presiding Officer must, as soon as possible, provide any reasons given in accordance with sub-paragraph (1) to the members who have agreed to the notification under paragraph 11.

PART 4

MINISTERIAL CONSIDERATION OF NEW EU ACTS IN THE JOINT COMMITTEE

Meaning of "applicability motion"

17. In this Part, an "applicability motion", in relation to the application of a new EU act, means a motion of the Assembly tabled in this form—

"That [*x*] should be added to the Windsor Framework by the United Kingdom and the European Union within the Joint Committee in accordance with Article 13(4) of that Framework."

where "[*x*]" is to be substituted with the title of the new EU act.

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

Restrictions relating to a decision to add new EU acts

18. (1) A Minister of the Crown must not agree to the adoption of a decision by the Joint Committee to add a new EU act to the relevant annex in accordance with Article 13(4) of the Framework unless the Assembly has indicated support for the application of that EU act by passing an applicability motion.

(2) But the Minister of the Crown may agree to the adoption of such a decision if the Minister considers that—

(a) there are exceptional circumstances that justify the adoption of the decision in the absence of an applicability motion having been passed, or

(b) the new EU act would not create a new regulatory border between Great Britain and Northern Ireland.

(3) Before proceeding under sub-paragraph (2), the Minister of the Crown must make a statement to Parliament explaining why the Minister is of the opinion that the condition in either sub-paragraph (2)(a) or (2)(b) is met.

(4) Sub-paragraph (1) does not apply to a new EU act which was the subject of any European Commission proposal of 27 February 2023 relating to the Framework.

(5) In this paragraph—

"exceptional circumstances" includes circumstances in which the Assembly has, as its first business, failed to elect from among its members a Presiding Officer and deputies or there is no First Minister and deputy First Minister in office, and

"a new regulatory border" means regulatory requirements relating to the movement of goods that would—

(a) materially divert trade, or

(b) materially impair the free flow of goods.

Requirements relating to the applicability motion

19. (1) No applicability motion may be tabled in relation to a new EU act until a notification has been made under sub-paragraph (2) in relation to the same new EU act.

(2) A notification under this paragraph may be made if a new EU act is being considered by the Joint Committee under Article 13(4) of the Framework.

(3) A notification is made under sub-paragraph (2) if His Majesty's government in the United Kingdom provides the notification to—

(a) the chair of the Committee,

(b) the clerk of the Committee,

(c) the clerk to the Assembly, or

(d) the Presiding Officer.

(4) The First Minister and the deputy First Minister acting jointly may table an applicability motion within a period of two weeks beginning with the day on which a notification is made in accordance with sub-paragraph (2).

(5) No other member of the Assembly may table an applicability motion unless the two-week period expires with no such motion having been tabled.

(6) A vote on an applicability motion must be passed with cross-community support and must be passed within a period of five weeks beginning with the day on which the notification referred to in sub-paragraph (2) is made.

(7) If an applicability motion has been tabled, the Presiding Officer must select that motion for debate and a vote in the Assembly no later than the final sitting day of the Assembly before the end of the period referred to in sub-paragraph (6).

(8) A Minister of the Crown may extend any of the time periods referred to in this paragraph by providing written notification of such an extension to the Presiding Officer.**]**

SCHEDULE 7

Section 68(4).

THE NORTHERN IRELAND HUMAN RIGHTS COMMISSION

Introductory

1 In this Schedule "the Commission" means the Northern Ireland Human Rights Commission.

Commencement Information

I1 Sch. 7 para. 1 wholly in force at 1.3.1999; Sch. 7 para. 1 not in force at Royal Assent see s. 101(3); Sch. 7 para. 1 in force for certain purposes at 15.2.1999 and for all other purposes at 1.3.1999 by S.I. 1999/340, art. 2(1), **Sch. Pt. 1**

Commissioners' tenure

2 (1) Subject to the provisions of this Schedule, a Commissioner shall hold office in accordance with the terms of his appointment.

(2) A Commissioner shall not be appointed—

(a) in the case of the Chief Commissioner, for more than five years at a time; and

(b) in any other case, for more than three years at a time.

(3) A person may resign as a Commissioner or as Chief Commissioner by notice in writing to the Secretary of State.

(4) The Secretary of State may dismiss a person from his office as Commissioner or Chief Commissioner if satisfied—

(a) that he has without reasonable excuse failed to discharge his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal;

(b) that he has been convicted of a criminal offence;

(c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

(d) that he is unable or unfit to carry out his functions.

Commencement Information

I2 Sch. 7 para. 2 wholly in force at 1.3.1999; Sch. 7 para. 2 not in force at Royal Assent see s. 101(3); Sch. 7 para. 2 in force for certain purposes at 15.2.1999 and for all other purposes at 1.3.1999 by S.I. 1999/340, art. 2(1), **Sch. Pt. 1**

Commissioners' salary etc.

3 (1) The Commission shall pay to or in respect of Commissioners—

(a) remuneration;

(b) allowances and fees; and

(c) sums for the provision of pensions,

in accordance with directions of the Secretary of State.

(2) Where a person who by reference to any office or employment is a participant in a scheme under section 1 of the [M35]Superannuation Act 1972 becomes a Commissioner or the Chief Commissioner, the Minister for the Civil Service may, notwithstanding any provision made under sub-paragraph (1)(c), determine that the person's service as Commissioner or Chief Commissioner shall be treated for the purposes of the scheme as service in that office or employment.

Marginal Citations

M35 1972 c.11.

Staff

4 (1) The Commission may employ staff subject to the approval of the Secretary of State as to numbers and as to remuneration and other terms and conditions of employment.

(2) Employment with the Commission shall be included among the kinds of employment to which a superannuation scheme under section 1 of the Superannuation Act 1972 can apply, and accordingly in Schedule 1 to that Act (in which those kinds of employment are listed) after "Commission for Racial Equality" insert— " Northern Ireland Human Rights Commission ".

(3) The Commission shall pay to the Minister for the Civil Service, at such times as he may direct, such sums as he may determine in respect of any increase attributable to sub-paragraph (2) in the sums payable out of money provided by Parliament under the Superannuation Act 1972.

Annual report

5 (1) The Commission shall, as soon as reasonably practicable after the end of each year, make a report to the Secretary of State on the performance of its functions during the year.

(2) The Secretary of State shall lay a copy of the report before each House of Parliament.

Money

6 The Secretary of State may make grants to the Commission out of money provided by Parliament.

7 (1) The Commission shall keep proper accounts and financial records.

(2) The Commission shall—

(a) prepare a statement of accounts in respect of each financial year containing such information, and in such form, as the Secretary of State with the consent of the Treasury directs; and

(b) send a copy to the Secretary of State and to the Comptroller and Auditor General within such period after the end of the financial year as the Secretary of State directs.

(3) The Comptroller and Auditor General shall—

(a) examine, certify and report on the statement of accounts; and

(b) lay a copy of the statement of accounts and of his report before each House of Parliament.

(4) For the purposes of this paragraph—

(a) a financial year is a period of twelve months ending on 31st March; but

(b) the first financial year is the period beginning with the day on which section 68 comes into force and ending with the first 31st March which falls at least six months after that day.

Procedure

8 (1) In determining its own procedure the Commission may, in particular, make provision about—

(a) the discharge of its functions by committees (which may include persons who are not Commissioners);

(b) a quorum for meetings of the Commission or a committee.

(2) The validity of any proceedings of the Commission or a committee shall not be affected by—

(a) a vacancy in the office of Chief Commissioner; or

(b) a defect in the appointment of a Commissioner.

Disqualification

9 In Part III of Schedule 1 to the [M36]House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— " Northern Ireland Human Rights Commissioner ".

Marginal Citations

M36 1975 c.24.

10 In Part III of Schedule 1 to the [M37]Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate place insert— " Northern Ireland Human Rights Commissioner ".

Marginal Citations
M37 1975 c.25.

Status

11 The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and property of the Commission shall not be regarded as property of, or held on behalf of, the Crown.

SCHEDULE 8

Section 73(5).

THE EQUALITY COMMISSION FOR NORTHERN IRELAND

Modifications etc. (not altering text)
C9 Sch. 8: transfer of certain functions (1.12.1999) by S.R. 1999/481, arts. 1, 4, **Sch. 2 Pt. I**

Introductory

1 In this Schedule "the Commission" means the Equality Commission for Northern Ireland.

Commencement Information
I3 Sch. 8 para. 1 wholly in force at 2.8.1999; Sch. 8 para. 1 not in force at Royal Assent see s. 101(3); Sch. 8 para. 1 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; Sch. 8 para. 1 in force at 2.8.1999 by S.I. 1999/2204, **art. 2**

Commissioners' tenure

2 (1) Subject to the provisions of this Schedule, a Commissioner shall hold office in accordance with the terms of his appointment.

(2) A Commissioner shall not be appointed—
(a) in the case of the Chief Commissioner, for more than five years at a time; and
(b) in any other case, for more than three years at a time.

(3) A person may resign as a Commissioner, as the Chief Commissioner or as a Deputy Chief Commissioner by notice in writing to the Secretary of State.

(4) The Secretary of State may dismiss a person from his office of Commissioner, Chief Commissioner or Deputy Chief Commissioner if satisfied—
(a) that he has without reasonable excuse failed to discharge his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal;
(b) that he has been convicted of a criminal offence;

(c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

(d) that he is unable or unfit to carry out his functions.

Commencement Information

I4 Sch. 8 para. 2 wholly in force at 2.8.1999; Sch. 8 para. 1 not in force at Royal Assent see s. 101(3); Sch. 8 para. 2 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; Sch. 8 para. 2 in force at 2.8.1999 by S.I. 1999/2204, **art. 2**

Commissioners' salary etc.

3 The Department of Economic Development may with the approval of the Department of Finance and Personnel pay to or in respect of Commissioners—

(a) remuneration;

(b) allowances and fees; and

(c) sums for the provision of pensions.

[F100 Additional Commissioners

Textual Amendments

F100 Sch. 8 para. 3A and crossheading preceding it inserted (19.4.2000) by S.I. 2000/1110, **art. 18(1)**

F101 3A (1) Paragraph 2(1) and (2) shall apply to additional Commissioners as they apply to Commissioners.

(2) The Commission may pay, or make such payments towards the provision of, such remuneration, allowances (including allowances for expenses), pensions or gratuities to or in respect of an additional Commissioner as the Office of the First Minister and deputy First Minister, with the consent of the Department of Finance and Personnel, may determine.

(3) The Commission may not alter the terms of appointment of an additional Commissioner except with his consent and the approval of the Office of the First Minister and deputy First Minister.

(4) An additional Commissioner may resign by notice in writing to the Commission.

(5) The Commission may, with the approval of the Office of the First Minister and deputy First Minister, terminate the appointment of an additional Commissioner if satisfied—

(a) that without reasonable excuse he has failed to discharge his functions for a continuous period of three months beginning not earlier than six months before the termination;

(b) that he has been convicted of a criminal offence;

(c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or

(d) that he is unable or unfit to carry out his functions.

(6) The appointment of an additional Commissioner shall terminate at the conclusion of the investigation for which he was appointed, if not sooner.

(7) In this paragraph "additional Commissioner" means an additional Commissioner appointed under—

(a) Article 57(2) of the Sex Discrimination (Northern Ireland) Order 1976;

(b) Article 46(2) of the Race Relations (Northern Ireland) Order 1997; or

(c) Article 5(4) of the Equality (Disability, etc.) (Northern Ireland) Order 2000.**]**

Textual Amendments

F101 Sch. 8 para. 3A and Cross Heading inserted (19.4.2000) by S.I. 2000/1110, **art. 18(1)**

Staff

4 (1) The Commission may with the approval of the Department of Economic Development and the Department of Finance and Personnel as to numbers and as to remuneration and other terms and conditions of employment—

(a) employ such staff as the Commission considers necessary;

(b) employ the services of such other persons as the Commission considers expedient for any particular purpose.

(2) The Commission may, in the case of such of its staff as may be determined by it with the approval of the Department of Economic Development and the Department of Finance and Personnel, pay such pensions, allowances or gratuities, or provide and maintain such pension schemes, as may be so determined.

(3) Payments made or expenses incurred under this paragraph shall be defrayed out of money appropriated by Act of the Assembly.

Annual report

5 (1) The Commission shall, as soon as reasonably practicable after the end of **[**[F102]each financial year**]**, make a report to the Department of Economic Development—

(a) on the performance of its functions during the year; and

(b) on any steps which, during the year, have been taken by it and other public authorities to promote such equality of opportunity as is mentioned in section 75(1).

(2) The report shall, in particular, give details of how resources have been divided between the functions previously exercisable by each of the bodies listed in section 74(2).

(3) The Department shall lay a copy of the report before the Assembly and send a copy of the report to the Secretary of State.

(4) The Secretary of State shall lay a copy of the report before each House of Parliament.

[[F103](5) Sub-paragraph (5) of paragraph 7 applies for the purposes of this paragraph as it applies for the purposes of that paragraph.**]**

Textual Amendments

F102 Words in Sch. 8 para. 5(1) substituted (19.4.2000) by S.I. 2000/1110, **art. 19(1)(2)**

F103 Sch. 8 para. 5(5) added (19.4.2000) by S.I. 2000/1110, **art. 19(1)(3)**

Money

6 (1) Expenditure incurred by the Commission may be defrayed as expenses of the Department of Economic Development if authorised by that Department and the Department of Finance and Personnel.

(2) Expenditure defrayed under this paragraph shall be defrayed out of money appropriated by Act of the Assembly and an authorisation for the purposes of this paragraph may be general or specific.

7 (1) The Commission shall keep accounts and financial records in a form approved by the Department of Economic Development.

(2) The Commission shall—

(a) prepare a statement of accounts in respect of each financial year containing such information, and in such form, as is directed by the Department of Economic Development with the consent of the Department of Finance and Personnel; and

(b) send a copy to the Department of Economic Development and to the Comptroller and Auditor General for Northern Ireland within such period after the end of the financial year as the Department directs.

(3) The Comptroller and Auditor General for Northern Ireland shall—

(a) examine, certify and report on the statement of accounts; and

(b) send a copy of the statement of accounts and of his report to the Department of Economic Development.

(4) The Department shall lay a copy of the statement of accounts and the Comptroller and Auditor General's report before the Assembly.

(5) For the purposes of this paragraph—

(a) a financial year is a period of twelve months ending on 31st March; but

(b) the first financial year is the period beginning with the day on which section 73 comes into force and ending with the first 31st March which falls at least six months after that day.

Modifications etc. (not altering text)

C10 Sch. 8 para 7(3)(4) applied (20.7.1999) by S.I. 1999/1804, **art. 6(4)**

Procedure

8 (1) In determining its own procedure the Commission may, in particular, make provision about—

(a) the discharge of its functions by committees (which may include persons who are not Commissioners);

(b) a quorum for meetings of the Commission or a committee.

(2) The validity of any proceedings of the Commission or a committee shall not be affected by—

(a) a vacancy in the office of Chief Commissioner or Deputy Chief Commissioner; or

(b) a defect in the appointment of a Commissioner.

Disqualification

9 In Part II of Schedule 1 to the [M38]House of Commons Disqualification Act 1975 (bodies whose members are disqualified) at the appropriate place insert— " The Equality Commission for Northern Ireland ".

Marginal Citations

M38 1975 c.24.

10 In Part II of Schedule 1 to the [M39]Northern Ireland Assembly Disqualification Act 1975 (bodies whose members are disqualified) at the appropriate place insert— " The Equality Commission for Northern Ireland ".

Marginal Citations

M39 1975 c.25.

The Northern Ireland Commissioner for Complaints

[F104]11 . . . . . .

Textual Amendments

F104 Sch. 8 para. 11 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, **Sch. 9**

Status

12 The Commission shall not be regarded as the servant or agent of the Crown or as enjoying any status, immunity or privilege of the Crown; and property of the Commission shall not be regarded as property of, or held on behalf of, the Crown.

SCHEDULE 9

Section 75(4).

EQUALITY: ENFORCEMENT OF DUTIES

The Equality Commission

1 The Equality Commission for Northern Ireland shall—

(a) keep under review the effectiveness of the duties imposed by section 75;

(b) offer advice to public authorities and others in connection with those duties; and

(c) carry out the functions conferred on it by the following provisions of this Schedule.

Commencement Information

I5 Sch. 9 para. 1 wholly in force at 1.1.2000; Sch. 9 para. 1 not in force at Royal Assent see s. 101(3); Sch. 9 para. 1(b) in force for specified purposes at 1.10.1999 by S.I. 1999/2204, **art. 3**; Sch. 9 para. 1 in force at 1.1.2000 insofar as not already in force by S.I. 1999/2204, **art. 4**

Equality schemes

2 (1) A public authority to which this sub-paragraph applies shall, before the end of the period of six months beginning with the commencement of this Schedule or, if later, the establishment of the authority, submit a scheme to the Commission.

(2) Sub-paragraph (1) applies to any public authority except one which is notified in writing by the Commission that that sub-paragraph does not apply to it.

3 (1) Where it thinks appropriate, the Commission may—

(a) request a public authority to which paragraph 2(1) does not apply to make a scheme;

(b) request any public authority to make a revised scheme.

(2) A public authority shall respond to a request under this paragraph by submitting a scheme to the Commission before the end of the period of six months beginning with the date of the request.

4 (1) A scheme shall show how the public authority proposes to fulfil the duties imposed by section 75 in relation to the relevant functions.

(2) A scheme shall state, in particular, the authority's arrangements—

(a) for assessing its compliance with the duties under section 75 and for consulting on matters to which a duty under that section is likely to be relevant (including details of the persons to be consulted);

(b) for assessing and consulting on the likely impact of policies adopted or proposed to be adopted by the authority on the promotion of equality of opportunity;

(c) for monitoring any adverse impact of policies adopted by the authority on the promotion of equality of opportunity;

(d) for publishing the results of such assessments as are mentioned in paragraph (b) and such monitoring as is mentioned in paragraph (c);

(e) for training staff;

(f) for ensuring, and assessing, public access to information and to services provided by the authority.

(3) A scheme shall—

(a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Secretary of State;

(b) specify a timetable for measures proposed in the scheme; and

(c) include details of how it will be published.

(4) In this paragraph—

"equality of opportunity" means such equality of opportunity as is mentioned in section 75(1);

"the relevant functions" means the functions of the public authority or, in the case of a scheme submitted in response to a request which specifies particular functions of the public authority, those functions.

[[F105](5) But where the public authority is designated by order under section 75(3)(a) or (d)—

"equality of opportunity" does not include equality of opportunity in relation to which (by virtue of the order) the public authority has no obligations under section 75(1);

"the relevant functions" does not include functions of the public authority so far as the obligations imposed by section 75 do not (by virtue of the order) apply to their exercise.**]**

Textual Amendments

F105 Sch. 9 para. 4(5) inserted (13.3.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 22(2)**, 28(1)(f)

5 Before submitting a scheme a public authority shall consult, in accordance with any directions given by the Commission—

(a) representatives of persons likely to be affected by the scheme; and

(b) such other persons as may be specified in the directions.

6 (1) On receipt of a scheme the Commission shall—

(a) approve it; or

(b) refer it to the Secretary of State.

(2) Where the Commission refers a scheme to the Secretary of State under sub-paragraph (1)(b), it shall notify the Assembly in writing that it has done so and send the Assembly a copy of the scheme.

7 (1) Where a scheme is referred to the Secretary of State he shall—

(a) approve it;

(b) request the public authority to make a revised scheme; or

(c) make a scheme for the public authority.

(2) A request under sub-paragraph (1)(b) shall be treated in the same way as a request under paragraph 3(1)(b).

(3) Where the Secretary of State—

(a) requests a revised scheme under sub-paragraph (1)(b); or

(b) makes a scheme under sub-paragraph (1)(c),

he shall notify the Assembly in writing that he has done so and, in a case falling within paragraph (b), send the Assembly a copy of the scheme.

8 (1) If a public authority wishes to revise a scheme it may submit a revised scheme to the Commission.

(2) A revised scheme shall be treated as if it were submitted in response to a request under paragraph 3(1)(b).

(3) A public authority shall, before the end of the period of five years beginning with the submission of its current scheme, or the latest review of that scheme under this sub-paragraph, whichever is the later, review that scheme and inform the Commission of the outcome of the review.

Duties arising out of equality schemes

9 (1) In publishing the results of such an assessment as is mentioned in paragraph 4(2)(b), a public authority shall state the aims of the policy to which the assessment relates and give details of any consideration given by the authority to—

(a) measures which might mitigate any adverse impact of that policy on the promotion of equality of opportunity; and

(b) alternative policies which might better achieve the promotion of equality of opportunity.

(2) In making any decision with respect to a policy adopted or proposed to be adopted by it, a public authority shall take into account any such assessment and consultation as is mentioned in paragraph 4(2)(b) carried out in relation to the policy.

(3) In this paragraph "equality of opportunity" has the same meaning as in paragraph 4.

Complaints

10 (1) If the Commission receives a complaint made in accordance with this paragraph of failure by a public authority to comply with a scheme approved or made under paragraph 6 or 7, it shall—

(a) investigate the complaint; or

(b) give the complainant reasons for not investigating.

(2) A complaint must be made in writing by a person who claims to have been directly affected by the failure.

(3) A complaint must be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.

(4) Before making a complaint the complainant must—

(a) bring the complaint to the notice of the public authority; and

(b) give the public authority a reasonable opportunity to respond.

Investigations

11 (1) This paragraph applies to—

(a) investigations required by paragraph 10; and

(b) any other investigation carried out by the Commission where it believes that a public authority may have failed to comply with a scheme approved or made under paragraph 6 or 7.

(2) The Commission shall send a report of the investigation to—

(a) the public authority concerned;

(b) the Secretary of State; and

(c) the complainant (if any).

(3) If a report recommends action by the public authority concerned and the Commission considers that the action is not taken within a reasonable time—
  (a) the Commission may refer the matter to the Secretary of State; and
  (b) the Secretary of State may give directions to the public authority in respect of any matter referred to him.

(4) Where the Commission—
  (a) sends a report to the Secretary of State under sub-paragraph (2)(b); or
  (b) refers a matter to the Secretary of State under sub-paragraph (3)(a),

it shall notify the Assembly in writing that it has done so and, in a case falling within paragraph (a), send the Assembly a copy of the report.

(5) Where the Secretary of State gives directions to a public authority under sub-paragraph (3)(b), he shall notify the Assembly in writing that he has done so.

Government departments

12 (1) Paragraphs 6, 7 and 11(2)(b) and (3) do not apply to a government department which is such a public authority as is mentioned in section 75(3)(a).

(2) On receipt of a scheme submitted by such a government department under paragraph 2 or 3 the Commission shall—
  (a) approve it; or
  (b) request the department to make a revised scheme.

(3) A request under sub-paragraph (2)(b) shall be treated in the same way as a request under paragraph 3(1)(b).

(4) Where a request is made under sub-paragraph (2)(b), the government department shall, if it does not submit a revised scheme to the Commission before the end of the period of six months beginning with the date of the request, send to the Commission a written statement of the reasons for not doing so.

(5) The Commission may lay before Parliament and the Assembly a report of any investigation such as is mentioned in paragraph 11(1) relating to a government department such as is mentioned in sub-paragraph (1).

[F106SCHEDULE 9A

Section 78G

THE OFFICE OF IDENTITY AND CULTURAL EXPRESSION

Textual Amendments

F106 Sch. 9A inserted (22.5.2023) by Identity and Language (Northern Ireland) Act 2022 (c. 45), s. 10(2), **Sch. 1**; S.I. 2023/566, reg. 2(b)

Status

1 (1) The Office is not to be regarded—
  (a) as a servant or agent of the Crown, or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) Property of the Office is not to be regarded as property of, or held on behalf of, the Crown.

Membership

2 The Office is to consist of—

(a) a Director appointed by the First Minister and deputy First Minister acting jointly, and

(b) no more than five other members appointed by the First Minister and deputy First Minister acting jointly,

each, a "member".

Tenure of members

3 (1) Subject to the provisions of this Schedule, a person holds office as a member in accordance with the terms of the person's appointment.

(2) A person may not be appointed as a member for more than five years at a time, or more than twice.

(3) A person may resign as a member by notice in writing to the First Minister and deputy First Minister.

(4) The First Minister and deputy First Minister acting jointly may dismiss a person from office as a member by notice in writing if satisfied that the person—

(a) has without reasonable excuse failed to discharge the functions of the office for a continuous period of three months beginning not earlier than six months before the day of dismissal;

(b) has been convicted of a criminal offence;

(c) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order, or has made a voluntary arrangement;

(d) is unable or unfit to carry out the functions of the office of a member.

(5) Each of the expressions used in sub-paragraph (4)(c) has the same meaning as in the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19).

Members' salary etc.

4 (1) The Office may pay to or in respect of a member such remuneration, allowances, fees and sums for the provision of a pension as the Executive Office may determine.

(2) Where a person ceases to be a member otherwise than on the expiration of a term of office and the Executive Office determines that special circumstances justify compensation, the Office may pay to or in respect of the person such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

Staff

5 (1) The Office may appoint such number of staff as the Office may determine.

(2) The terms and conditions of a person's appointment are to be determined by the Office; but that is subject to the provisions of this Schedule.

(3) The Office may pay to or in respect of a member of staff such remuneration, allowances, fees and sums for the provision of a pension as the Office may determine.

(4) Where a person ceases to be a member of staff otherwise than on the expiration of a term of appointment and the Office determines that special circumstances justify compensation, the Office may pay to or in respect of the person such amount as the Office may determine.

(5) A determination of the Office under this paragraph requires the approval of the Executive Office and Department of Finance.

Assistance

6 (1) The Executive Office may provide the Office with staff, facilities or services for the purpose of assisting the Office in the exercise of its functions.

(2) In this Schedule, a reference to a member of staff includes a reference to a member of staff appointed on secondment; but a period of secondment does not affect a person's continuity of service in the Northern Ireland civil service.

Exercise of functions

7 Any function of the Office may be exercised by—

(a) the Director, or

(b) another member or member of staff authorised (whether generally or specifically) for the purpose.

General powers

8 The Office may do whatever the Office considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Office's functions, other than borrowing money.

Proceedings

9 (1) The Office may regulate its own proceedings.

(2) The validity of any proceedings of the Office is not affected by a vacancy or defective appointment.

Funding

10 (1) The Executive Office may make grants to the Office of such amounts as it determines with the approval of the Department of Finance.

(2) The Office must pay to the Executive Office any sums received by the Office in the course of, or in connection with, the exercise of the Office's functions.

(3) Sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may with the approval of the Department of Finance direct.

Accounts

11 (1) The Office must—

(a) keep proper accounts and proper records in relation to the accounts, and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts must be in such form and contain such information as the Executive Office may with the approval of the Department of Finance direct.

(3) The Office must, within such period after the end of each financial year as the Executive Office may direct, send copies of the statement of accounts relating to that year to—

(a) the Executive Office, and

(b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General for Northern Ireland must—

(a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and

(b) send a copy of the report to the Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and the report of the Comptroller and Auditor General for Northern Ireland before the Assembly.

(6) In this paragraph and paragraph 12 "financial year" means—

(a) the period beginning with the day on which the first person appointed as Director takes office and ending on the 31 March following that day, and

(b) each successive period of twelve months ending on 31 March.

Annual report

12 (1) As soon as reasonably practicable after the end of each financial year, the Office must send to the Executive Office a report on the performance of the Office's functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

Seal and evidence

13 (1) The application of the seal of the Office must be authenticated by the signature of—

(a) the Director, or

(b) another member or member of staff authorised for the purpose.

(2) A document purporting to be an instrument issued by the Office and to be duly executed under the Office's seal or signed on its behalf is to be received in evidence and is, unless the contrary is proved, taken to be such an instrument.**]**

[F107 SCHEDULE 9B

Section 78K

THE IRISH LANGUAGE COMMISSIONER

Textual Amendments

F107 Sch. 9B inserted (22.5.2023) by Identity and Language (Northern Ireland) Act 2022 (c. 45), s. 10(2), **Sch. 2**; S.I. 2023/566, reg. 2(d)

Status

1 (1) The Commissioner is not to be regarded—

(a) as a servant or agent of the Crown, or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown.

Tenure of office

2 (1) Subject to the provisions of this Schedule, a person holds office as the Commissioner in accordance with the person's terms of appointment.

(2) A person may not be appointed as Commissioner for more than five years at a time, or more than twice.

(3) A person may at any time resign as Commissioner by notice in writing to the First Minister and deputy First Minister.

(4) The First Minister and deputy First Minister acting jointly may dismiss a person from office as Commissioner by notice in writing if satisfied that the person—

(a) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of three months beginning not earlier than six months before the day of dismissal;

(b) has been convicted of a criminal offence;

(c) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order, or has made a voluntary arrangement;

(d) is unable or unfit to perform the functions of the office.

(5) Each of the expressions used in sub-paragraph (4)(c) has the same meaning as in the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19).

Commissioner's salary, etc

3 (1) The Executive Office may pay to or in respect of the Commissioner such remuneration, allowances, fees and sums for the provision of a pension as the Executive Office may determine.

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that special circumstances justify compensation, the Executive Office may pay to or in respect of the person such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Staff

4 (1) The Commissioner may appoint such number of staff as the Commissioner may determine.

(2) The terms and conditions of a person's appointment are to be determined by the Commissioner; but that is subject to the provisions of this Schedule.

(3) The Commissioner may pay to or in respect of a member of staff such remuneration, allowances, fees and sums for the provision of a pension as the Commissioner may determine.

(4) Where a person ceases to be a member of staff otherwise than on expiration of a term of appointment and the Commissioner determines that special circumstances justify compensation, the Commissioner may pay to or in respect of the person such amount as the Commissioner may determine.

(5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and Department of Finance.

Assistance

5 (1) The Executive Office may provide the Commissioner with staff, facilities or services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions.

(2) The Office of Identity and Cultural Expression may provide the Commissioner with services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions.

(3) In this Schedule, a reference to a member of staff includes a reference to a member of staff appointed on secondment; but a period of secondment does not affect a person's continuity of service in the Northern Ireland civil service.

Exercise of functions

6 Any function of the Commissioner may be exercised by any member of staff of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

General powers

7 The Commissioner may do whatever the Commissioner considers appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner's functions, other than borrowing money.

Funding

8 (1) The Executive Office may make grants to the Commissioner of such amounts as it determines with the approval of the Department of Finance.

(2) The Commissioner must pay to the Executive Office any sums received by the Commissioner in the course of, or in connection with, the exercise of the Commissioner's functions.

(3) Sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may with the approval of the Department of Finance direct.

Accounts

9 (1) The Commissioner must—

(a) keep proper accounts and proper records in relation to the accounts, and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts must be in such form and contain such information as the Executive Office may with the approval of the Department of Finance direct.

(3) The Commissioner must, within such period after the end of each financial year as the Executive Office may direct, send copies of the statement of accounts relating to that year to—

(a) the Executive Office, and

(b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

(a) examine, certify and report on every statement of accounts received under sub-paragraph (3), and

(b) send a copy of the report to the Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and the report of the Comptroller and Auditor General before the Assembly.

(6) In this paragraph and paragraph 10 "financial year" means—

(a) the period beginning with the day on which the first person appointed as Commissioner takes office and ending on the 31 March following that day, and

(b) each successive period of twelve months ending on 31 March.

Annual report

10 (1) As soon as practicable after the end of each financial year, the Commissioner must send to the Executive Office a report on the exercise of the Commissioner's functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

Seal and evidence

11 (1) The application of the seal of the Commissioner must be authenticated by the signature of—

(a) the Commissioner, or

(b) a member of staff authorised for the purpose.

(2) A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or signed by or on behalf of the

Commissioner is to be received in evidence and is, unless the contrary is proved, taken to be such an instrument.

Property

12 (1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.**]**

[[F108]SCHEDULE 9C

Section 78R

COMMISSIONER FOR THE ULSTER SCOTS AND THE ULSTER BRITISH TRADITION

Textual Amendments

F108 Sch. 9C inserted (22.5.2023) by Identity and Language (Northern Ireland) Act 2022 (c. 45), s. 10(2), **Sch. 3**; S.I. 2023/566, reg. 2(f)

Status

1 (1) The Commissioner is not to be regarded—

(a) as a servant or agent of the Crown; or

(b) as enjoying any status, immunity or privilege of the Crown.

(2) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown.

Tenure of office

2 (1) Subject to the provisions of this Schedule, a person holds office as the Commissioner in accordance with the person's terms of appointment.

(2) A person may not be appointed as Commissioner for more than five years at a time, or more than twice.

(3) A person may at any time resign as Commissioner by notice in writing to the First Minister and deputy First Minister.

(4) The First Minister and deputy First Minister acting jointly may dismiss a person from office as Commissioner by notice in writing if satisfied that the person—

(a) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of three months beginning not earlier than six months before the day of dismissal;

(b) has been convicted of a criminal offence;

(c) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order, or has made a voluntary arrangement;

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

(d) is unable or unfit to perform the functions of the office.

(5) Each of the expressions used in sub-paragraph (4)(c) has the same meaning as in the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19).

Commissioner's salary, etc

3 (1) The Executive Office may pay to or in respect of the Commissioner such remuneration, allowances, fees and sums for the provision of a pension as the Executive Office may determine.

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that special circumstances justify compensation, the Executive Office may pay to or in respect of the person such amount as the Executive Office may determine.

(3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance.

Staff

4 (1) The Commissioner may appoint such number of staff as the Commissioner may determine.

(2) The terms and conditions of a person's appointment are to be determined by the Commissioner; but that is subject to the provisions of this Schedule.

(3) The Commissioner may pay to or in respect of a member of staff such remuneration, allowances, fees and sums for the provision of a pension as the Commissioner may determine.

(4) Where a person ceases to be a member of staff otherwise than on expiration of a term of appointment and the Commissioner determines that special circumstances justify compensation, the Commissioner may pay to or in respect of the person such amount as the Commissioner may determine.

(5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and Department of Finance.

Assistance

5 (1) The Executive Office may provide the Commissioner with staff, facilities or services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions.

(2) The Office of Identity and Cultural Expression may provide the Commissioner with services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions.

(3) In this Schedule, a reference to a member of staff includes a reference to a member of staff appointed on secondment; but a period of secondment does not affect a person's continuity of service in the Northern Ireland civil service.

Exercise of functions

6 Any function of the Commissioner may be exercised by any member of staff of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

General powers

7 The Commissioner may do whatever the Commissioner considers appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner's functions, other than borrowing money.

Funding

8 (1) The Executive Office may make grants to the Commissioner of such amounts as it determines with the approval of the Department of Finance.

(2) The Commissioner must pay to the Executive Office any sums received by the Commissioner in the course of, or in connection with, the exercise of the Commissioner's functions.

(3) Sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may with the approval of the Department of Finance direct.

Accounts

9 (1) The Commissioner must—

(a) keep proper accounts and proper records in relation to the accounts; and

(b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts must be in such form and contain such information as the Executive Office may with the approval of the Department of Finance direct.

(3) The Commissioner must, within such period after the end of each financial year as the Executive Office may direct, send copies of the statement of accounts relating to that year to—

(a) the Executive Office; and

(b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General must—

(a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and

(b) send a copy of the report to the Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and the report of the Comptroller and Auditor General before the Assembly.

(6) In this paragraph and paragraph 10 "financial year" means—

(a) the period beginning with the day on which the first person appointed as Commissioner takes office and ending on the 31 March following that day; and

(b) each successive period of twelve months ending on 31 March.

Annual report

10 (1) As soon as practicable after the end of each financial year, the Commissioner must send to the Executive Office a report on the exercise of the Commissioner's functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

Seal and evidence

11 (1) The application of the seal of the Commissioner must be authenticated by the signature of—

(a) the Commissioner; or

(b) a member of staff authorised for the purpose.

(2) A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or signed by or on behalf of the Commissioner is to be received in evidence and is, unless the contrary is proved, taken to be such an instrument.

Property

12 (1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) in the successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property vests in the successor on appointment.**]**

SCHEDULE 10

Section 79.

DEVOLUTION ISSUES

PART I

PRELIMINARY

1 In this Schedule "devolution issue" means—

(a) a question whether any provision of an Act of the Assembly is within the legislative competence of the Assembly;

(b) a question whether a purported or proposed exercise of a function by a Minister or Northern Ireland department is, or would be, invalid by reason of section 24;

(c) a question whether a Minister or Northern Ireland department has failed to comply with any of the Convention rights[F109]...; or

(d) any question arising under this Act about excepted or reserved matters.

Textual Amendments

F109 Words in Sch. 10 para. 1(c) omitted (31.12.2020) by virtue of European Union (Withdrawal) Act 2018 (c. 16), s. 25(4), **Sch. 3 para. 62** (with s. 19, Sch. 8 para. 37); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)

2 A devolution issue shall not be taken to arise in any proceedings merely because of any contention of a party to the proceedings which appears to the court or tribunal before which the proceedings take place to be frivolous or vexatious.

PART II

PROCEEDINGS IN NORTHERN IRELAND

Application of Part II

3 This Part of this Schedule applies in relation to devolution issues in proceedings in Northern Ireland.

Institution of proceedings

4 (1) Proceedings for the determination of a devolution issue may be instituted **[**[F110]by the Advocate General for Northern Ireland**]** or the Attorney General for Northern Ireland.

(2) The **[**[F111]Attorney General for Northern Ireland**]** may defend any such proceedings **[**[F112]instituted by the Advocate General for Northern Ireland**]** .

(3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

Textual Amendments

F110 Words in Sch. 10 para. 4(1) substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(2)(a)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

F111 Words in Sch. 10 para. 4(2) substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(2)(b)**; S.R. 2010/113, art. 2, **Sch. 19(a)**

F112 Words in Sch. 10 para. 4(2) inserted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(2)(b)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

Notice of devolution issue

5 A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the **[**[F113]Advocate General for Northern Ireland and the Attorney General for Northern Ireland **]** (unless the person to whom the notice would be given is a party to the proceedings).

Textual Amendments

F113 Words in Sch. 10 para. 5 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(3)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

6 A person to whom notice is given in pursuance of paragraph 5 [F114]... may take part as a party in the proceedings, so far as they relate to a devolution issue.

Textual Amendments

F114 Words in Sch. 10 para. 6 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 13**; S.R. 2010/52, art. 2(e)

Reference of devolution issue to Court of Appeal

7 A court, other than the **[**[F115]Supreme Court**]** or the Court of Appeal in Northern Ireland, may refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland.

Textual Amendments

F115 Words in Sch. 10 para. 7 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 115(2)**; S.I. 2009/1604, **art. 2(a)(d)**

8 A tribunal from which there is no appeal shall refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland; and any other tribunal may make such a reference.

*References from Court of Appeal to **[**[F116]Supreme Court**]***

Textual Amendments

F116 Words in Sch. 10 cross-heading preceding para. 9 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 115(3)**; S.I. 2009/1604, **art. 2(a)(d)**

9 The Court of Appeal in Northern Ireland may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 7 or 8) to the **[**[F117]Supreme Court**]** .

Textual Amendments

F117 Words in Sch. 10 para. 9 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 115(4)**; S.I. 2009/1604, **art. 2(a)(d)**

*Appeals from Court of Appeal to **[**[F118]Supreme Court**]***

Textual Amendments

F118 Words in Sch. 10 cross-heading preceding para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 115(5)**; S.I. 2009/1604, **art. 2(a)(d)**

10 An appeal against a determination of a devolution issue by the Court of Appeal in Northern Ireland on a reference under paragraph 7 or 8 shall lie to the **[**[F119]Supreme

Court] , but only with [[F120]permission] of the Court of Appeal in Northern Ireland or, failing such [[F120]permission], with [[F121]permission] of the [[F119]Supreme Court].

Textual Amendments

F119 Words in Sch. 10 para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 115(6)(a)**; S.I. 2009/1604, **art. 2(a)(d)**

F120 Words in Sch. 10 para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 115(6)(b)**; S.I. 2009/1604, **art. 2(a)(d)**

F121 Words in Sch. 10 para. 10 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 115(6)(c)**; S.I. 2009/1604, **art. 2(a)(d)**

PART III

PROCEEDINGS IN ENGLAND AND WALES

Application of Part III

11 This Part of this Schedule applies in relation to devolution issues in proceedings in England and Wales.

Institution of proceedings

12 (1) Proceedings for the determination of a devolution issue may be instituted [F122]... by the Attorney General.

(2) The Attorney General for Northern Ireland [F122]... may defend any such proceedings.

(3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

Textual Amendments

F122 Words in Sch. 10 para. 12 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 13**; S.R. 2010/52, art. 2(e)

Notice of devolution issue

13 A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General [[F123]and the Attorney General for Northern Ireland] (unless the person to whom the notice would be given is a party to the proceedings).

Textual Amendments

F123 Words in Sch. 10 para. 13 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(4)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

14 A person to whom notice is given in pursuance of paragraph 13 [F124]... may take part as a party in the proceedings, so far as they relate to a devolution issue.

Textual Amendments

F124 Words in Sch. 10 para. 14 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 13**; S.R. 2010/52, art. 2(e)

Reference of devolution issue to High Court or Court of Appeal

15 A magistrates' court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the High Court.

16 (1) A court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Court of Appeal.

(2) Sub-paragraph (1) does not apply to—

(a) a magistrates' court, the Court of Appeal or the **[**[F125]Supreme Court**]**; or

(b) the High Court if the devolution issue arises in proceedings on a reference under paragraph 15.

Textual Amendments

F125 Words in Sch. 10 para. 16(2)(a) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(2)**; S.I. 2009/1604, **art. 2(a)(d)**

17 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Court of Appeal; and any other tribunal may make such a reference.

18 A court, other than the **[**[F126]Supreme Court**]** or the Court of Appeal, may refer any devolution issue which arises in criminal proceedings before it to—

(a) the High Court (if the proceedings are summary proceedings); or

(b) the Court of Appeal (if the proceedings are proceedings on indictment).

Textual Amendments

F126 Words in Sch. 10 para. 18 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(3)**; S.I. 2009/1604, **art. 2(a)(d)**

*References from Court of Appeal to **[**[F127]Supreme Court**]***

Textual Amendments

F127 Words in Sch. 10 cross-heading preceding para. 19 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(4)**; S.I. 2009/1604, **art. 2(a)(d)**

19 The Court of Appeal may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 16, 17 or 18) to the **[**[F128]Supreme Court**]** .

Textual Amendments

F128 Words in Sch. 10 para. 19 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(5)**; S.I. 2009/1604, **art. 2(a)(d)**

Appeals from superior courts to [F129 Supreme Court]

Textual Amendments

F129 Words in Sch. 10 cross-heading preceding para. 20 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(6)**; S.I. 2009/1604, **art. 2(a)(d)**

20 An appeal against a determination of a devolution issue by the High Court or the Court of Appeal on a reference under paragraph 15, 16, 17 or 18 shall lie to the [F130 Supreme Court] , but only with [F131 permission] of the High Court or the Court of Appeal or, failing such [F131 permission] , with [F132 permission] of the [F130 Supreme Court] .

Textual Amendments

F130 Words in Sch. 10 para. 20 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(7)(a)**; S.I. 2009/1604, **art. 2(a)(d)**

F131 Words in Sch. 10 para. 20 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(7)(b)**; S.I. 2009/1604, **art. 2(a)(d)**

F132 Words in Sch. 10 para. 20 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 116(7)(c)**; S.I. 2009/1604, **art. 2(a)(d)**

PART IV

PROCEEDINGS IN SCOTLAND

Application of Part IV

21 This Part of this Schedule applies in relation to devolution issues in proceedings in Scotland.

Institution of proceedings

22 (1) Proceedings for the determination of a devolution issue may be instituted [F133]... by the Advocate General for Scotland.

(2) The Attorney General for Northern Ireland [F133]... may defend any such proceedings.

(3) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

Textual Amendments

F133 Words in Sch. 10 para. 22 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 13**; S.R. 2010/52, art. 2(e)

Intimation of devolution issue

23 Intimation of any devolution issue which arises in any proceedings before a court or tribunal shall be given to the Advocate General for Scotland **[**[F134]and the Attorney General for Northern Ireland**]** (unless the person to whom the intimation would be given is a party to the proceedings).

Textual Amendments

F134 Words in Sch. 10 para. 23 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(5)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

24 A person to whom intimation is given in pursuance of paragraph 23 [F135]... may take part as a party in the proceedings, so far as they relate to a devolution issue.

Textual Amendments

F135 Words in Sch. 10 para. 24 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 13**; S.R. 2010/52, art. 2(e)

Reference of devolution issue to higher court

25 A court, other than the **[**[F136]Supreme Court**]** or any court consisting of three or more judges of the Court of Session, may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Inner House of the Court of Session.

Textual Amendments

F136 Words in Sch. 10 para. 25 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(2)**; S.I. 2009/1604, **art. 2(a)(d)**

26 A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.

27 A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

References from superior courts to [F137Supreme Court]

Textual Amendments

F137 Words in cross-heading preceding Sch. 10 para. 28 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(3)**; S.I. 2009/1604, **art. 2(a)(d)**

28 Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 25 or 26) to the **[**F138Supreme Court**]** .

Textual Amendments

F138 Words in Sch. 10 para. 28 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(4)**; S.I. 2009/1604, **art. 2(a)(d)**

29 Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 27) to the **[**F139Supreme Court**]** .

Textual Amendments

F139 Words in Sch. 10 para. 29 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(5)**; S.I. 2009/1604, **art. 2(a)(d)**

Appeals from superior courts to [F140Supreme Court]

Textual Amendments

F140 Words in cross-heading preceding Sch. 10 para. 30 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss, 40, 148, {Sch. 9 para. 117(6)}; S.I. 2009/1604, **art. 2(a)(d)**

30 An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 25 or 26 shall lie to the **[**F141Supreme Court**]** .

Textual Amendments

F141 Words in Sch. 10 para. 30 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(7)**; S.I. 2009/1604, **art. 2(a)(d)**

31 An appeal against a determination of a devolution issue by—

(a) a court of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 27); or

(b) a court of three or more judges of the Court of Session from which there is no appeal to the **[**F142Supreme Court apart from this paragraph**]** ,

shall lie to the [F143Supreme Court] , but only with [F144permission] of the court concerned or, failing such [F144permission] , with [F145permission] of the [F143Supreme Court] .

Textual Amendments

F142 Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(8)(a)**; S.I. 2009/1604, **art. 2(a)(d)**

F143 Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(8)(b)**; S.I. 2009/1604, **art. 2(a)(d)**

F144 Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(8)(c)**; S.I. 2009/1604, **art. 2(a)(d)**

F145 Words in Sch. 10 para. 31 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 117(8)(d)**; S.I. 2009/1604, **art. 2(a)(d)**

PART V

GENERAL

F146 . . .

Textual Amendments

F146 Sch. 10 para. 32 and preceding cross-heading repealed (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 146, 148, Sch. 9 para. 118(2), **Sch. 18 Pt. 5**; S.I. 2009/1604, **art. 2(a)(d)(f)**

32 F147 . . . . . .

Textual Amendments

F147 Sch. 10 para. 32 and preceding cross-heading repealed (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 146, 148, Sch. 9 para. 118(2), **Sch. 18 Pt. 5**; S.I. 2009/1604, **art. 2(a)(d)(f)**

Direct references to [F148Supreme Court]

Textual Amendments

F148 Words in cross-heading preceding Sch. 10 para. 33 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 118(3)**; S.I. 2009/1604, **art. 2(a)(d)**

33 The Attorney General, [F149the Advocate General for Northern Ireland, the Attorney General for Northern Ireland] or the Advocate General for Scotland may require any court or tribunal to refer to the [F150Supreme Court] any devolution issue which has arisen in proceedings before it to which he is or they are a party.

Textual Amendments

F149 Words in Sch. 10 para. 34 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(6)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

F150 Words in Sch. 10 para. 33 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 118(4)**; S.I. 2009/1604, **art. 2(a)(d)**

34 The Attorney General, **[**[F149]the Advocate General for Northern Ireland, the Attorney General for Northern Ireland**]** or the Advocate General for Scotland may refer to the **[**[F151]Supreme Court**]** any devolution issue which is not the subject of proceedings.

Textual Amendments

F149 Words in Sch. 10 para. 34 substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(6)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

F151 Words in Sch. 10 para. 34 substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 118(5)**; S.I. 2009/1604, **art. 2(a)(d)**

35 (1) This paragraph applies where a reference is made under paragraph 34 in relation to a devolution issue which relates to the proposed exercise of a function by a Northern Ireland Minister or department.

(2) The person making the reference shall notify the Northern Ireland Minister or department of that fact.

(3) No Northern Ireland Minister or department shall exercise the function in the manner proposed during the period beginning with the receipt of the notification under sub-paragraph (2) and ending with the reference being decided or otherwise disposed of.

(4) Proceedings relating to any possible failure by a Northern Ireland Minister or department to comply with sub-paragraph (3) may be instituted by the **[**[F152]Advocate General for Northern Ireland**]** .

(5) Sub-paragraph (4) is without prejudice to any power to institute proceedings exercisable apart from that sub-paragraph by any person.

Textual Amendments

F152 Words in Sch. 10 para. 35(4) substituted (12.4.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 7 para. 2(7)**; S.R. 2010/113, art. 2, Sch. para. 19(a)

Delegation by First Ministers

[F153]36 . . . . . .

Textual Amendments

F153 Sch. 10 para. 36 repealed (1.3.2010) by Justice (Northern Ireland) Act 2002 (c. 26), s. 87(1), **Sch. 13**; S.R. 2010/52, art. 2(e)

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

Expenses

37 (1) A court or tribunal before which any proceedings take place may take account of any additional expense of the kind mentioned in sub-paragraph (3) in deciding any question as to costs or expenses.

(2) In deciding any such question, the court or tribunal may award the whole or part of the additional expense as costs or expenses to the party who incurred it (whatever the decision on the devolution issue).

(3) The additional expense is any additional expense which the court or tribunal considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of paragraph 6, 14 or 24.

Procedure of courts and tribunals

38 Any power to make provision for regulating the procedure before any court or tribunal shall include power to make provision for the purposes of this Schedule including, in particular, provision—

(a) for prescribing the stage in the proceedings at which a devolution issue is to be raised or referred;

(b) for the staying or sisting of proceedings for the purpose of any proceedings under this Schedule; and

(c) for determining the manner in which and the time within which any notice or intimation is to be given.

Bail and legal aid in criminal proceedings

39 (1) Sub-paragraph (3) applies where a devolution issue arises in proceedings against a person ("the defendant") for an offence and the issue is referred to the Court of Appeal in Northern Ireland under paragraph 7.

(2) **[**[F154]Sub-paragraph (3) applies**]** where such an issue arises in such proceedings and—

(a) the issue is referred by the **[**[F155]Court of Appeal**]** to the **[**[F156]Supreme Court**]** under paragraph 9 or 33; or

(b) the issue is determined by the **[**[F155]Court of Appeal**]** under paragraph 7 and—

(i) an appeal to the **[**[F156]Supreme Court**]** against the determination is brought under paragraph 10; or

(ii) an application for leave to bring such an appeal is made to the **[**[F155]Court of Appeal**]** under that paragraph.

(3) The **[**[F155]Court of Appeal**]** may, if it thinks fit, on the application of the defendant, admit him to bail pending the determination of the reference, appeal or application.

(4) The **[**[F155]Court of Appeal**]** may at any time when it appears to the **[**[F155]Court of Appeal**]**—

(a) that it is desirable in the interests of justice that the defendant should have legal aid; and

(b) that he has not sufficient means to obtain that aid,

assign to him a solicitor and counsel, or counsel only, in the reference, appeal or application.

(5) If, on a question of granting a person free legal aid under sub-paragraph (4), there is a doubt—

(a) whether it is desirable in the interests of justice that he should have legal aid; or

(b) whether he has sufficient means to obtain that aid,

the doubt shall be resolved in favour of granting him free legal aid.

(6) The fees of any counsel, and the expenses and fees of any solicitor, assigned to a person under sub-paragraph (4) shall be defrayed, up to an amount allowed by the Master (Taxing Office), by the Lord Chancellor [F157]....

Textual Amendments

F154 Words in Sch. 10 para. 39(2) substituted (1.4.2015) by Access to Justice (Northern Ireland) Order 2003 (S.I. 2003/435 (N.I. 10)), art. 1(2), **Sch. 4 para. 14** (with art. 45); S.R. 2015/194, art. 2, **Sch.** (with art. 3)

F155 Words in Sch. 10 para. 39(2)-(4) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 118(6)(a)**; S.I. 2009/1604, **art. 2(a)(d)**

F156 Words in Sch. 10 para. 39(2)-(4) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 118(6)(b)**; S.I. 2009/1604, **art. 2(a)(d)**

F157 Words in Sch. 10 para. 39(6) omitted (12.4.2010) by virtue of The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 18 para. 58(2)** (with arts. 28-31)

Modifications etc. (not altering text)

C11 Sch. 10 para. 39(6): transfer of functions (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), art. 1(2), **Sch. 17 para. 16** (with arts. 28-31)

40 Where a devolution issue arises as mentioned in sub-paragraph (1) of paragraph 39 and—

(a) the issue is referred to the **[**[F158]Supreme Court**]** under paragraph 9 or 33; or

(b) the issue is determined by the Court of Appeal in Northern Ireland under paragraph 7 and—

(i) an appeal to the **[**[F158]Supreme Court**]** against the determination is brought under paragraph 10; or

(ii) an application for special leave to bring such an appeal is made to the **[**[F158]Supreme Court**]** under that paragraph,

sub-paragraphs (3) to (6) of paragraph 39 shall apply as if the references to the **[**[F159]Court of Appeal**]** were references to the **[**[F158]Supreme Court**]** .

Textual Amendments

F158 Words in Sch. 10 para. 40(a)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 119(a)**; S.I. 2009/1604, **art. 2(a)(d)**

F159 Words in Sch. 10 para. 40(a)(b) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4), ss. 40, 148, **Sch. 9 para. 119(b)**; S.I. 2009/1604, **art. 2(a)(d)**

Interpretation

41 Any duty or power conferred by this Schedule to refer a devolution issue to a court shall be construed as a duty or power to refer the issue to the court for decision.

SCHEDULE 11

Section 91(1).

TRIBUNAL ESTABLISHED UNDER SECTION 91

Introductory

1 In this Schedule "the Tribunal" means the tribunal established under section 91.

Commencement Information

I6 Sch. 11 para. 1 wholly in force at 2.8.1999; Sch. 11 para. 1 not in force at Royal Assent see s. 101(3); Sch. 11 para. 1 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; Sch. 11 para. 1 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, **art. 5**

Members

2 (1) The Tribunal shall consist of such number of members appointed by the Lord Chancellor as he may determine.

(2) A member of the Tribunal shall hold and vacate office in accordance with the terms of his appointment and shall, on ceasing to hold office, be eligible for re-appointment.

(3) A member of the Tribunal may resign his office at any time by notice in writing to the Lord Chancellor.

Commencement Information

I7 Sch. 11 para. 2 wholly in force at 2.8.1999; Sch. 11 para. 2 not in force at Royal Assent see s. 101(3); Sch. 11 para. 2 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; Sch. 11 para. 2 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, **art. 5**

[[F160]2A(1) The Lord Chancellor may only appoint persons to the Tribunal who have been selected by the Northern Ireland Judicial Appointments Commission as follows.

(2) The Lord Chancellor may at any time by notice require the Commission to select a person for appointment.

(3) The Commission must then select a person for appointment and notify the Lord Chancellor accordingly.

(4) The Lord Chancellor must then appoint the selected person.

(5) Section 5A of, and Part 4 of Schedule 3 to, the Justice (Northern Ireland) Act 2002 apply for the purposes of selections under this paragraph as they apply for the purposes of selections under that Schedule.**]**

Textual Amendments

F160 Sch. 11 para. 2A inserted (12.4.2010) by Northern Ireland Act 2009 (c. 3), s. 5(7), **Sch. 5 para. 4**; S.I. 2010/812, art. 2

Chairman

3 (1) The Lord Chancellor shall appoint one of the members of the Tribunal to be its chairman.

(2) The chairman may nominate a member as deputy chairman to act in his absence.

(3) A member may not be appointed as chairman or nominated as deputy chairman, unless he holds, or has held, office as a judge of the High Court, the High Court of Justice in Northern Ireland, the Court of Appeal or the Court of Appeal in Northern Ireland.

(4) The chairman may resign his office at any time by notice in writing to the Lord Chancellor.

Commencement Information

I8 Sch. 11 para. 3 wholly in force at 2.8.1999; Sch. 11 para. 3 not in force at Royal Assent see s. 101(3); Sch. 11 para. 3 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; Sch. 11 para. 3 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, **art. 5**

Payments to members

4 (1) The Lord Chancellor may pay to the members of the Tribunal such remuneration and allowances as he may determine.

(2) The Lord Chancellor may, if he thinks fit in the case of any member of the Tribunal pay such pension, allowance or gratuity to or in respect of the member, or such sums towards the provision of such pension, allowance or gratuity, as he may determine.

(3) If a person ceases to be a member of the Tribunal and it appears to the Lord Chancellor that there are special circumstances which make it right that the person should receive compensation, he may pay to that person a sum of such amount as he may determine.

Proceedings

5 (1) The Tribunal shall sit at such times and in such places as the **[**[F161]Lord Chief Justice**]** may direct.

[[F162](2) The Lord Chief Justice may nominate any of the following to exercise his functions under this paragraph—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).**]**

Textual Amendments

F161 Sch. 11 para. 5 renumbered as Sch. 11 para. 5(1) and words in para. 5(1) substituted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 108(2)(3)**; S.I. 2006/1014, art. 2(a), **Sch. 1 para. 12(b)**

F162 Sch. 11 para. 5(2) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 108(4)**; S.I. 2006/1014, art. 2(a), **Sch. 1 para. 12(b)**

6 The Tribunal shall be deemed to be duly constituted if it consists of the chairman or deputy chairman and two or more other members.

7 The chairman or, in his absence, the deputy chairman, shall preside at sittings of the Tribunal.

Staff

8 The Lord Chancellor may appoint such officers and servants for the Tribunal as he thinks fit.

Commencement Information

I9 Sch. 11 para. 8 wholly in force at 2.8.1999; Sch. 11 para. 8 not in force at Royal Assent see s. 101(3); Sch. 11 para. 8 in force for specified purposes at 15.2.1999 by S.I. 1999/340, art. 2(2), **Sch. Pt. 2**; Sch. 11 para. 8 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, **art. 5**

Expenses

9 The Lord Chancellor shall defray the remuneration of persons appointed under paragraph 8 and such expenses of the Tribunal as he thinks fit.

Disqualification of Tribunal Members

10 In Part II of Schedule 1 to the [M40]House of Commons Disqualification Act 1975 (bodies of which all members are disqualified) at the appropriate place insert— " The Tribunal established under section 91 of the Northern Ireland Act 1998 ".

Marginal Citations

M40 1975 c.24.

11 In Part II of Schedule 1 to the [M41]Northern Ireland Assembly Disqualification Act 1975 (bodies of which all members are disqualified) at the appropriate place insert — " The Tribunal established under section 91 of the Northern Ireland Act 1998 ".

Marginal Citations

M41 1975 c.25.

SCHEDULE 12

Section 95(5).

CONSTRUCTION OF REFERENCES IN EXISTING LAWS

Preliminary

1 (1) Enactments and instruments shall, except where the context otherwise requires, be construed in accordance with this Schedule.

(2) In this Schedule "instruments" includes charters, contracts and other documents.

The Parliament and the old Assembly

2 (1) References to the Parliament of Northern Ireland shall be construed as including references to—

(a) the Assembly established under section 1 of the [M42]Northern Ireland Assembly Act 1973; and

(b) the Assembly.

(2) References to the Assembly established under section 1 of the Northern Ireland Assembly Act 1973 shall be construed as including references to the Assembly.

Marginal Citations

M42 1973 c.17.

Legislation etc of the Parliament or the old Assembly

3 (1) A reference to an Act or enactment of the Parliament of Northern Ireland shall be construed as including a reference to an Order in Council under section 1(3) of the [M43]Northern Ireland (Temporary Provisions) Act 1972.

(2) A reference to an Act or enactment of, or a Bill in, the Parliament of Northern Ireland shall be construed as including a reference to—

(a) a Measure or proposed Measure of the Assembly established under section 1 of the [M44]Northern Ireland Assembly Act 1973; and

(b) an Act or Bill of the Assembly.

(3) A reference to a Measure or proposed Measure of the Assembly so established shall be construed as including a reference to an Act or Bill of the Assembly.

(4) A reference to a Measure of the Assembly so established shall be construed as including a reference to an Order in Council under paragraph 1 of Schedule 1 to the [M45]Northern Ireland Act 1974.

Marginal Citations

M43 1972 c.22.

M44 1973 c.17.

M45 1974 c.28.

4 (1) A reference to a resolution or other decision of the Senate or the House of Commons of the Parliament of Northern Ireland, or of either House of that Parliament, shall be construed as including a reference to a resolution or decision of—

(a) the Assembly established under section 1 of the Northern Ireland Assembly Act 1973; or

(b) the Assembly.

(2) A reference to a resolution or other decision of the Assembly established under section 1 of the Northern Ireland Assembly Act 1973 shall be construed as a reference to a resolution or decision of the Assembly.

5 A reference to laying a document before, or presenting it to—

(a) the Parliament of Northern Ireland or either House of that Parliament; or

(b) the Assembly established under section 1 of the [M46]Northern Ireland Assembly Act 1973,

shall be construed as a reference to laying it before, or presenting it to, the Assembly.

Marginal Citations

M46 1973 c.17.

6 Paragraphs 2 to 5 apply to enactments and instruments passed or made before the appointed day.

Money

7 (1) A reference to—

(a) money provided by the Parliament of Northern Ireland; or

(b) money appropriated by Measure of the Assembly established under section 1 of the Northern Ireland Assembly Act 1973,

shall be construed as a reference to money appropriated by Act of the Assembly.

(2) A reference to payment into or out of the Exchequer of Northern Ireland shall be construed as a reference to payment into or out of the Consolidated Fund of Northern Ireland.

(3) This paragraph applies to enactments and instruments passed or made before the appointed day.

Office-holders and Ministers

8 (1) A reference to—

(a) the Governor of Northern Ireland;

(b) the Governor of Northern Ireland in Council; or

(c) the making of an Order in Council by the Governor of Northern Ireland,

shall be construed as a reference to the Secretary of State or, as the case may be, the making of an order by the Secretary of State.

(2) This paragraph applies to enactments and instruments passed or made before 1st January 1974.

9 (1) A reference to—

(a) the Prime Minister of Northern Ireland; or
(b) the chief executive member,

shall be construed as a reference to the First Minister and deputy First Minister acting jointly.

(2) References to Northern Ireland executive authorities shall be construed as references to Ministers and the Northern Ireland departments.

(3) A reference to—
(a) the Executive Committee for Northern Ireland; or
(b) the Northern Ireland Executive,

shall be construed as a reference to the Executive Committee established by section 20.

(4) This paragraph applies to enactments and instruments passed or made before the appointed day.

10 (1) A reference to—
(a) a particular Ministry of Northern Ireland; or
(b) the Minister in charge of a particular Ministry,

shall, in relation to a function, be construed as a reference to the Northern Ireland department which exercises that function or to the Northern Ireland Minister in charge of that department.

(2) A reference to an unspecified Ministry shall be construed as a reference to a Northern Ireland department.

(3) This paragraph applies to enactments and instruments passed or made before 1st January 1974.

11 (1) A reference to—
(a) an unspecified Minister of Northern Ireland; or
(b) the head of a Northern Ireland department,

shall be construed as a reference to a Northern Ireland Minister.

(2) A reference to the head of a specified Northern Ireland department shall, in relation to a function, be construed as a reference to the Northern Ireland Minister in charge of the department which exercises that function.

(3) In sub-paragraph (1) "Northern Ireland Minister" includes the First Minister and the deputy First Minister.

(4) This paragraph applies to enactments and instruments passed or made before the appointed day.

Courts

12 (1) A reference to the Supreme Court of Judicature in Ireland shall be construed as a reference to the **[**[F163]Court of Judicature**]** .

(2) A reference to the High Court of Justice in Ireland shall be construed as a reference to the High Court of Justice in Northern Ireland.

(3) A reference to the Court of Appeal in Ireland shall be construed as a reference to the Court of Appeal in Northern Ireland.

(4) This paragraph applies to enactments and instruments passed or made before the passing of the [M47]Government of Ireland Act 1920.

Textual Amendments

F163 Words in Sch. 12 para. 12(1) substituted (1.10.2009) by Constitutional Reform Act 2005 (c. 4). ss. 59, 148, {Sch. 11 para. 33(3)}; S.I. 2009/1604, **art. 2(b)(d)**

Marginal Citations

M47 1920 c.67.

Equal opportunity bodies

13 (1) A reference to—

(a) the Fair Employment Commission for Northern Ireland;

(b) the Equal Opportunities Commission for Northern Ireland;

(c) the Commission for Racial Equality for Northern Ireland; or

(d) the Northern Ireland Disability Council,

shall be construed as a reference to the Equality Commission for Northern Ireland.

(2) This paragraph applies to enactments and instruments passed or made before section 74 comes into force.

[F164]SCHEDULE 12A

Section 95A(10)

. . . . . .

Textual Amendments

F164 Sch. 12A repealed (1.4.2011) by Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(j)**

SCHEDULE 13

Section 99.

MINOR AND CONSEQUENTIAL AMENDMENTS

Fair Employment (Northern Ireland) Act 1976 (c.25)

[F165]1 . . . . . .

Textual Amendments

F165 Sch. 13 para. 1 repealed (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(4), **Sch. 5**; S.R. 1999/81, **art. 3(1)**

Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I. 15))

2 (1) The Sex Discrimination (Northern Ireland) Order 1976 shall be amended as follows.

(2) In Article 2(2) (interpretation), in the definition of "the Commission" for "the Equal Opportunities Commission for Northern Ireland" substitute " the Equality Commission for Northern Ireland ".

(3) In Article 54(1) (establishment of Equal Opportunities Commission for Northern Ireland)—

(a) in paragraph (1) for the words before paragraph (a) substitute " The Commission shall have the following duties "; and

(b) paragraphs (2) to (4) shall cease to have effect.

(4) Schedule 3 (the Equal Opportunities Commission for Northern Ireland) shall cease to have effect.

Interpretation Act 1978 (c.30)

3 In section 24(5) of the Interpretation Act 1978 (meaning of "Northern Ireland legislation"), for paragraphs (d) and (e) substitute—

"(d) Measures of the Northern Ireland Assembly established under section 1 of the [M48]Northern Ireland Assembly Act 1973;

(e) Orders in Council under Schedule 1 to the [M49]Northern Ireland Act 1974;

(f) Acts of the Northern Ireland Assembly; and

(g) Orders in Council under section 85 of the Northern Ireland Act 1998."

Marginal Citations

M48 1973 c.17.

M49 1974 c.28.

Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I.12))

4 In Part II of Schedule 1 to the Statutory Rules (Northern Ireland) Order 1979 (rule-making authorities), for "section 40 of and paragraph 4 of Schedule 5 to the Northern Ireland Constitution Act 1973" substitute " section 95(5) of and paragraph 8 of Schedule 12 to the Northern Ireland Act 1998 ".

Mental Health Act 1983 (c.20)

5 (1) The Mental Health Act 1983 shall be amended as follows.

(2) In section 134(3)(a) (correspondence of patients), after "Parliament" insert " or of the Northern Ireland Assembly ".

[F166](3) . . . . . .

Textual Amendments

F166 Sch. 13 para. 5(3) omitted (28.4.2013) by virtue of Mental Health (Discrimination) Act 2013 (c. 8), s. 4(1), **Sch. para. 4(2)**

Insolvency Act 1986 (c.45)

6 In section 427 of the Insolvency Act 1986 (members of the House of Commons who are adjudged bankrupt etc.), after subsection (6B) insert—

"(6C) Subsection (1), as applied to a member of the Northern Ireland Assembly by virtue of section 36(4) of the Northern Ireland Act 1998, has effect as if "or Northern Ireland" were omitted; and subsections (4) to (6) have effect in relation to such a member as if—

(a) references to the House of Commons were to the Assembly and references to the Speaker were to the Presiding Officer; and

(b) in subsection (4), for "under this section" there were substituted "under section 36(4) of the Northern Ireland Act 1998 by virtue of this section"."

Audit (Northern Ireland) Order 1987 (S.I. 1987/460 (N.I.5))

7 In Article 6(2) of the Audit (Northern Ireland) Order 1987 (expenses and accounts of Northern Ireland Audit Office)—

(a) for "the Department", in the first place where it occurs, substitute " the committee established under section 66 of the Northern Ireland Act 1998 "; and

(b) for "the Department", in the second place where it occurs, substitute " that committee ".

Copyright, Designs and Patents Act 1988 (c.48)

8 (1) The Copyright, Designs and Patents Act 1988 shall be amended as follows.

(2) F167 . . . . . .

(3) F167 . . . . . .

(4) F167 . . . . . .

(5) In section 164(1) (Crown copyright in Acts of Parliament, etc.), after "Scottish Parliament" insert " , Act of the Northern Ireland Assembly ".

(6) After section 166A insert—

"**166B Copyright in Bills of the Northern Ireland Assembly.**

(1) Copyright in every Bill introduced into the Northern Ireland Assembly belongs to the Northern Ireland Assembly Commission.

(2) Copyright under this section subsists from the time when the text of the Bill is handed in to the Assembly for introduction—

(a) until the Bill receives Royal Assent, or

(b) if the Bill does not receive Royal Assent, until it is withdrawn or rejected or no further proceedings of the Assembly may be taken in respect of it.

(3) References in this Part to Parliamentary copyright (except in section 165) include copyright under this section; and, except as mentioned above, the provisions of this Part apply in relation to copyright under this section as to other Parliamentary copyright.

(4) No other copyright, or right in the nature of copyright, subsists in a Bill after copyright has once subsisted under this section; but without prejudice to the subsequent operation of this section in relation to a Bill which, not having received Royal Assent, is later reintroduced into the Assembly."

(7) In the definition of "parliamentary proceedings" in section 178 (definitions), the words ", of the New Northern Ireland Assembly" shall cease to have effect.

(8) In section 179 (index of defined expressions), in column 2 of the entry for "Parliamentary copyright", for "and 166A(3)" substitute " 166A(3) and 166B(3) ".

Textual Amendments

F167 Sch. 13 para. 8(2)-(4) repealed (1.4.2007) by Government of Wales Act 2006 (c. 32), ss. 161, 163, **Sch. 12**, (with Sch. 11 para. 22) the amending provision coming into force immediately after "the 2007 election" (held on 3.5.2007) subject to s. 161(4)(5) of the amending Act, which provides for certain provisions to come into force for specified purposes immediately after the end of "the initial period" (which ended with the day of the first appointment of a First Minister on 25.5.2007) see ss. 46, 161(1)(4)(5) of the amending Act.

Official Secrets Act 1989 (c.6)

9 (1) Section 12 of the Official Secrets Act 1989 (interpretation) shall be amended as follows.

(2) Subsection (1)(b) shall cease to have effect.

(3) After subsection (4) insert—

"(5) This Act shall apply to the following as it applies to persons falling within the definition of Crown servant—

(a) the First Minister and deputy First Minister in Northern Ireland; and

(b) Northern Ireland Ministers and junior Ministers."

Fair Employment (Northern Ireland) Act 1989 (c.32)

F168 10 . . . . . .

Textual Amendments

F168 Sch. 13 para. 10 repealed (1.3.1999) by S.I. 1998/3162 (N.I. 21), art. 105(4), **Sch. 5**; S.R. 1999/81, **art. 3(1)**

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

Social Security Administration Act 1992 (c.5)

11 In section 189 of the Social Security Administration Act 1992 (regulations and orders: general)—

(a) in subsection (9), for "175 and 178" substitute " and 175 "; and

(b) in subsection (11), for "any of sections 177 to 179" substitute " section 179 ".

Social Security Administration (Northern Ireland) Act 1992 (c.8)

12 In section 165 of the Social Security Administration (Northern Ireland) Act 1992 (regulations and orders: general)—

(a) in subsection (10), for "152 and 154" substitute " and 152 "; and

(b) in subsection (11), for "any of sections 153 to 155" substitute " section 155 ".

Environment and Safety Information (Northern Ireland) Order 1993 (S.I. 1993/3159 (N.I.14))

13 In the second column of Schedule 1 to the Environment and Safety Information (Northern Ireland) Order 1993 (enforcing authorities), for "section 43(2) of the Northern Ireland Constitution Act 1973" substitute " section 4(1) of the Northern Ireland Act 1998 ".

Civil Service (Management Functions) (Northern Ireland) Order 1994 (S.I. 1994/1894 (N.I.9))

14 In Article 3(1) of the Civil Service (Management Functions) (Northern Ireland) Order 1994, for paragraphs (a) and (b) substitute " which, by virtue of a prerogative order made under section 23(3) of the Northern Ireland Act 1998, is exercisable by the Department of Finance and Personnel ".

Olympic Symbol etc. Protection Act 1995 (c.32)

15 In section 4(16) of the Olympic Symbol etc. Protection Act 1995 (definitions), in the definition of "Royal Commission", for "by the Secretary of State in pursuance of the prerogative powers of Her Majesty delegated to him under section 7(2) of the Northern Ireland Constitution Act 1973" substitute " by a Minister, within the meaning of the Northern Ireland Act 1998, or Northern Ireland department in pursuance of the prerogative powers of Her Majesty exercisable by the Minister or department under section 23 of that Act ".

Disability Discrimination Act 1995 (c.50)

F169 16 . . . . . .

Textual Amendments

F169 Sch. 13 para. 16 repealed (25.4.2000) by S.I. 2000/1110 (N.I. 2), art. 16, **Sch. 2** (with art. 17); S.R. 2000/140, art. 2, **Sch.** Appendix

Commissioner for Complaints (Northern Ireland) Order 1996 (S.I. 1996/1297 (N.I.7))

F170 17 . . . . . .

Textual Amendments

F170 Sch. 13 paras. 17, 18 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, **Sch. 9**

Ombudsman (Northern Ireland) Order 1996 (S.I. 1996/1298 (N.I.8))

F170 18 . . . . . .

Textual Amendments

F170 Sch. 13 paras. 17, 18 repealed (1.4.2016) by Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4), s. 64, **Sch. 9**

Race Relations (Northern Ireland) Order 1997 (S.I. 1997/869 (N.I.6))

19 (1) The Race Relations (Northern Ireland) Order 1997 shall be amended as follows.

(2) In Article 2(2) (interpretation), in the definition of "the Commission" for "the Commission for Racial Equality for Northern Ireland" substitute " the Equality Commission for Northern Ireland ".

(3) Article 42(1) and (3) to (5) and Schedule 1 (establishment of Commission for Racial Equality for Northern Ireland) shall cease to have effect.

PROSPECTIVE

Northern Ireland (Elections) Act 1998 (c.12)

20 In Schedule 1 to the Northern Ireland (Elections) Act 1998 (the Assembly), for paragraph 8 substitute—

"8 (1) For the purposes of the law of defamation, absolute privilege shall attach to—

(a) the making of a statement in proceedings of the Assembly; and

(b) the publication of a statement under the Assembly's authority.

(2) In this paragraph "statement" has the same meaning as in the Defamation Act 1996."

Data Protection Act 1998 (c.29)

21 (1) In paragraph 4 of Schedule 7 to the Data Protection Act 1998 (miscellaneous exceptions), for "Northern Ireland department" substitute " Northern Ireland authority ".

(2) Renumber that paragraph (as so amended) as sub-paragraph (1) and after that provision as so renumbered insert—

"(2) In this paragraph "Northern Ireland authority" means the First Minister, the deputy First Minister, a Northern Ireland Minister or a Northern Ireland department."

SCHEDULE 14

Section 100(1).

TRANSITIONAL PROVISIONS AND SAVINGS

Human rights

1 In relation to any time before the [M50]Human Rights Act 1998 is fully in force, sections 6(2)(c), 24(1) and 71 and Schedule 10 shall have effect as if that Act were so in force.

Commencement Information

I10 Sch. 14 para. 1 wholly in force at 2.12.1999; Sch. 14 para. 1 not in force at Royal Assent see s. 100(3); Sch. 14 para. 1 in force for specified purposes at 1.6.1999 by S.I. 1999/340, art. 2(5), **Sch. Pt. 4**; Sch. 14 para. 1 in force at 2.12.1999 insofar as not alrady in force by S.I. 1999/3209, art. 2, **Sch.**

Marginal Citations

M50 1998 c.42.

First Minister and deputy First Minister

2 Any election of the First Minister and the deputy First Minister held before the appointed day shall on and after that day have effect as if it had been held under section 16.

Ministerial offices

3 Any determination of—

(a) the number of Ministerial offices to be held by Northern Ireland Ministers; and

(b) the functions to be exercisable by the holder of each such office,

made and approved before the appointed day shall on and after that day have effect as if it had been made and approved under section 17.

Northern Ireland Ministers

4 Any nomination of a person to hold a Ministerial office made before the appointed day shall on and after that day have effect as if it had been made under section 18.

Junior Ministers

5 Any of the following made and approved before the appointed day—

(a) a determination of the number of junior Ministers to be appointed;

(b) a determination of the functions to be exercised by the holder of each junior Ministerial office; and

(c) an appointment of a junior Minister,

shall have effect on and after that day as if it had been made and approved under section 19.

Department of First Minister and deputy First Minister

6 Any Northern Ireland department established before the appointed day under the charge of the First Minister and deputy First Minister acting jointly shall be treated on and after that day as if it had been established by an Act of the Assembly under section 21.

Prerogative orders

7 Any prerogative order made by the Secretary of State under the Letters Patent of Her Majesty dated 20th December 1973 before the appointed day shall on and after that day have effect as if it had been validly made under section 23(3) by the First Minister and the deputy First Minister acting jointly.

Agency arrangements

8 Any arrangements made under section 11 of the [M51]Northern Ireland Constitution Act 1973 before the appointed day shall on and after that day have effect as if they had been made under section 28.

Marginal Citations

M51 1973 c.36.

Statutory committees

9 (1) Any committee of the Assembly established before the appointed day to advise and assist a Northern Ireland Minister in the formulation of policy with respect to his responsibilities as a Minister shall be treated on and after that day as if it had been established by standing orders under section 29.

(2) Any appointment of a member, or the chairman or deputy chairman, of such a committee made before the appointed day shall have effect on and after that day as if it had been made under section 29.

Elections of members

10 Any order made under section 2(5) of the [M52]Northern Ireland (Elections) Act 1998 before the appointed day shall on and after that day have effect, with any necessary modifications, as if it had been made under section 34(4).

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

Marginal Citations
M52 1998 c.12.

Vacancies

11 Any order made under section 3 of the [M53]Northern Ireland (Elections) Act 1998 before the appointed day shall on and after that day have effect, with any necessary modifications, as if it had been made under section 35.

Marginal Citations
M53 1998 c.12.

Disqualification

12 A person elected on 25th June 1998 shall not be disqualified from membership of the Assembly by virtue of section 36 if he was not disqualified from such membership under section 4 of the [M54]Northern Ireland (Elections) Act 1998.

Marginal Citations
M54 1998 c.12.

Presiding Officer and deputy

13 Any person appointed or elected under paragraph 3 of the Schedule to the Northern Ireland (Elections) Act 1998 who holds office immediately before the appointed day shall on and after that day hold office as Presiding Officer or, as the case may be, deputy Presiding Officer as if he had been elected by the Assembly under section 39.

Standing orders

14 Any standing orders made by the Secretary of State under paragraph 10 to the Schedule to the Northern Ireland (Elections) Act 1998 before the appointed day shall on and after that day have effect as if they had been made by the Assembly under section 41.

Civic Forum

15 Any such arrangements as are mentioned in subsection (1) of section 56 which are made and approved before the commencement of that section shall have effect, after that commencement, as if they had been made and approved under that section.

Comptroller and Auditor General for Northern Ireland

16 Any appointment made by Her Majesty under section 36(1)(d) of the [M55]Northern Ireland Constitution Act 1973 before the appointed day shall on and after that day

have effect as if it had been an appointment made by Her Majesty on the nomination of the Assembly under section 65.

Marginal Citations

M55 1973 c.36.

Social security and child support

17 Any regulations made under any enactment repealed by virtue of section 87 shall have effect, with any necessary modifications as if they had been made under subsection (4) or, as the case may require, subsection (5) of that section.

Certificates by Secretary of State

18 Section 90 shall have effect—

(a) in relation to any act done before the appointed day, as if the reference to section 24 were a reference to section 19 of the Northern Ireland Constitution Act 1973 so far as relating to a member of the Northern Ireland Executive or other person appointed under section 8 of that Act or a Northern Ireland department;

(b) in relation to any act done before the commencement of section 76, as if the reference to that section were a reference to section 19 of that Act so far as relating otherwise than as mentioned in sub-paragraph (a); and

(c) in relation to any such act as is mentioned in sub-paragraph (a) or (b), as if—

(i) the reference in subsection (1)(b) to a certificate were a reference to a certificate purporting to be signed by or on behalf of the Secretary of State and certifying that an act specified in the certificate was done for the purpose of safeguarding national security; and

(ii) subsection (3)(b) were omitted.

Devolution issues

19 In relation to any time before the first appointment of the Advocate General for Scotland, paragraphs 22, 23, 33 and 34 of Schedule 10 shall have effect as if references to him were references to the Lord Advocate.

Relations with Republic of Ireland

20 The repeal effected by this Act of section 12 of the Northern Ireland Constitution Act 1973 shall not affect the operation of any agreement or arrangement made under that section.

Discrimination in legislation

21 The repeals effected by this Act shall not affect the operation of sections 17 and 18 of the [M56]Northern Ireland Constitution Act 1973 (read with section 23 of that Act) in relation to—

(a) Acts of the Parliament of Northern Ireland;

(b) Measures of the Northern Ireland Assembly established under section 1 of the [M57]Northern Ireland Assembly Act 1973;

(c) Orders in Council under Schedule 1 to the [M58]Northern Ireland Act 1974; and

(d) relevant subordinate instruments (within the meaning of section 17 of the Northern Ireland Constitution Act 1973) made before the appointed day.

Marginal Citations

M56 1973 c.36.
M57 1973 c.17.
M58 1974 c.28.

Discrimination by public bodies

22 The repeals effected by this Act shall not affect the operation of section 19 of the Northern Ireland Constitution Act 1973 (read with section 23 of that Act)—

(a) so far as section 19 relates to a member of the Northern Ireland Executive or other person appointed under section 8 of that Act or a Northern Ireland department, in relation to any act done before the appointed day;

(b) so far as section 19 relates otherwise than as mentioned in sub-paragraph (a), in relation to any act done before the commencement of section 76.

Members' Pensions

23 The repeals effected by this Act shall not affect the operation of the [M59]Ministerial Offices Act Northern Ireland) 1952, the [M60]Ministerial Salaries and Members' Pensions Act Northern Ireland) 1965 or the [M61]Members' Pensions (Northern Ireland) Order 1976 in relation to service completed before the appointed day.

Marginal Citations

M59 1952 c.15 (N.I.).
M60 1965 c.18 (N.I.).
M61 S.I. 1976/426 (N.I.8).

SCHEDULE 15

Section 100(2).

REPEALS

Commencement Information

I11 Sch. 15 partly in force; Sch. 15 in force for specified purposes at Royal Assent see s. 101; Sch. 15 in force for further specified purposes at 1.3.1999 by S.I. 1999/340, art. 2(3), **Sch. Pt. 3**; Sch. 15 in force for further specified purposes at 1.10.1999 by S.I. 1999/2204, **art. 3**; Sch. 15 in force for further specified purposes at 2.12.1999 by S.I. 1999/3209, art. 2, **Sch.**

Chapter or Number	Short title	Extent of repeal
3 Edw 7 c.37.	Irish Land Act 1903.	Sections 27 to 42.
		Section 47.
10 & 11 Geo 5 c.67.	Government of Ireland Act 1920.	The whole Act.
12 Geo 5 c.2 (N.I.).	Exchequer and Audit Act (Northern Ireland) 1921.	Section 5.
		Section 28(1).
14 & 15 Geo 5 c.11 (N.I.).	Ministers (Temporary Exercise of Powers) Act (Northern Ireland) 1924.	The whole Act.
10 & 11 Geo 6 c.37.	Northern Ireland Act 1947.	Section 8.
		Section 9(1) and (5).
		Section 14(1) and (2).
1 & 2 Eliz 2 c.3.	Public Works Loans Act 1952.	Section 6.
1 & 2 Eliz 2 c.15 (N.I.).	Ministerial Offices Act (Northern Ireland) 1952.	The whole Act.
2 & 3 Eliz 2 c.33 (N.I.).	Interpretation Act (Northern Ireland) 1954.	Section 13(2).
		In section 46(2), in the definition of "the constitutional laws of Northern Ireland", the words "the Government of Ireland Act 1920, and" and "amending or extending it or otherwise".
1965 c.18 (N.I.).	Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965.	The whole Act.
1969 c.7 (N.I.).	Superannuation (Miscellaneous Provisions) Act (Northern Ireland) 1969.	Section 4.
1972 c.22.	Northern Ireland (Temporary Provisions) Act 1972.	The whole Act.
1973 c.17.	Northern Ireland Assembly Act 1973.	The whole Act.
1973 c.36.	Northern Ireland Constitution Act 1973.	Sections 1 to 9.
		Sections 11 to 32.
		Section 33(1).

		Section 36(1)(d).
		Section 37(1).
		Sections 38 to 40.
		Schedules 1 to 5.
1973 c.69.	Northern Ireland Constitution (Amendment) Act 1973.	The whole Act.
1974 c.28.	Northern Ireland Act 1974.	The whole Act.
1975 c.24.	House of Commons Disqualification Act 1975.	In Schedule 1, in Part II, the entries relating to the Equal Opportunities Commission for Northern Ireland, the Fair Employment Commission for Northern Ireland and the Northern Ireland Disability Council; in Part III, the entry relating to the Additional Commissioner of the Equal Opportunities Commission for Northern Ireland.
1975 c.25.	Northern Ireland Assembly Disqualification Act 1975.	Section 5(1).
		In Schedule 1, in Part II, the entries relating to the Commission for Racial Equality for Northern Ireland, the Equal Opportunities Commission for Northern Ireland, the Fair Employment Commission for Northern Ireland and the Northern Ireland Disability Council; in Part III, the entries relating to the Additional Commissioner of the Commission for Racial Equality for Northern Ireland and the Additional Commissioner of the Equal Opportunities Commission for Northern Ireland.
		Schedule 2.
1976 c.25.	Fair Employment (Northern Ireland) Act 1976.	Section 1(2).
		Section 58(1).
		Schedule 1.
		Schedule 6.

S.I. 1976/426 (N.I.8).	Members' Pensions (Northern Ireland) Order 1976.	The whole Order.
S.I. 1976/1042 (N.I.15).	Sex Discrimination (Northern Ireland) Order 1976.	In Article 2(2), the definition of "the interim period".
		Article 54(2) to (4).
		Schedule 3.
		In Schedule 6, paragraph 2.
S.I. 1979/1573 (N.I.12).	Statutory Rules (Northern Ireland) Order 1979.	In Article 7(1), the words from "subject to" to "1974".
		Article 11(4).
		In Schedule 4, paragraph 14.
1981 c.35.	Finance Act 1981.	Section 137(1) and (2).
S.I. 1982/713 (N.I.10).	Probation Board (Northern Ireland) Order 1982.	In Schedule 1, paragraph 1(2).
1982 c.38.	Northern Ireland Act 1982.	The whole Act.
S.I. 1984/1821 (N.I.11).	Fire Services (Northern Ireland) Order 1984.	In Article 5(1)(f), the words "under section 12 of the Northern Ireland Constitution Act 1973".
1986 c.50.	Social Security Act 1986.	In Schedule 9, paragraph 6.
1986 c.53.	Building Societies Act 1986.	Section 122(2).
1986 c.56.	Parliamentary Constituencies Act 1986.	In Schedule 3, paragraphs 1 and 2.
1986 c.60.	Financial Services Act 1986.	Section 209(2).
S.I. 1986/595 (N.I.4).	Mental Health (Northern Ireland) Order 1986.	In Schedule 5, in Part II the amendment of the Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965.
1987 c.22.	Banking Act 1987.	Section 109(2).
1987 c.43.	Consumer Protection Act 1987.	Section 49(2).
S.I. 1987/460 (N.I.5).	Audit (Northern Ireland) Order 1987.	In Article 2(2), the definition of "the interim period".
		Article 4(2), (6) and (7).
		Article 6(6).
		Article 11(2) and (3).
		In Schedule 1, paragraph 4(3).

Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998. (See end of Document for details)*

		In Schedule 2, paragraph 4(3).
S.I. 1987/2203 (N.I.22).	Adoption (Northern Ireland) Order 1987.	In Schedule 4, paragraph 1.
1989 c.6.	Official Secrets Act 1989.	Section 12(1)(b).
1989 c.32.	Fair Employment (Northern Ireland) Act 1989.	In section 21(1), the definition of "the Commission".
		In Schedule 2, paragraphs 2, 5, 6 and 22 to 28.
1989 c.40.	Companies Act 1989.	In section 213(7), the words from "Subject to any Order" to the end.
1990 c.37.	Human Fertilisation and Embryology Act 1990.	Section 48(2).
1990 c.42.	Broadcasting Act 1990.	In Schedule 20, paragraph 19.
1990 c.43.	Environmental Protection Act 1990.	Section 3(8).
		Section 153(5).
1991 c.48.	Child Support Act 1991.	Section 23(4) and (5).
		Section 56(2) to (4).
		In Schedule 5, paragraph 2.
S.I. 1991/2628 (N.I.23).	Child Support (Northern Ireland) Order 1991.	Article 49(2) and (3).
1992 c.5.	Social Security Administration Act 1992.	Sections 177 and 178.
		Schedule 8.
1992 c.8.	Social Security Administration (Northern Ireland) Act 1992.	Sections 153 and 154.
		In section 167(1), the definition of "Joint Authority".
1992 c.40.	Friendly Societies Act 1992.	Section 124(2).
1993 c.36.	Criminal Justice Act 1993.	Section 79(11).
1993 c.39.	National Lottery etc. Act 1993.	Section 63(2).
1993 c.48.	Pension Schemes Act 1993.	In section 167(2), the words "section 177 (co-ordination with Northern Ireland)".
		Section 187.

1993 c.49.	Pension Schemes (Northern Ireland) Act 1993.	In section 163(2), the words "section 153 (co-ordination with Great Britain)".
S.I. 1993/1252 (N.I.5).	Financial Provisions (Northern Ireland) Order 1993.	Article 8(6A).
1994 c.26.	Trade Marks Act 1994.	In Schedule 4, the entry in paragraph 1(2) relating to the Northern Ireland Constitution Act 1973.
1995 c.34.	Child Support Act 1995.	Section 29(2) to (4).
S.I. 1995/2702 (N.I.13).	Child Support (Northern Ireland) Order 1995.	Article 20.
1996 c.11.	Northern Ireland (Entry to Negotiations, etc.) Act 1996.	The whole Act.
1996 c.22.	Northern Ireland (Emergency Provisions) Act 1996.	In Schedule 6, paragraph 1.
S.I. 1996/1297 (N.I.7).	Commissioner for Complaints (Northern Ireland) Order 1996.	Article 23(1).
		In Schedule 2, the entries relating to the Equal Opportunities Commission for Northern Ireland, the Fair Employment Commission for Northern Ireland and the Commission for Racial Equality for Northern Ireland.
		Schedule 4.
S.I. 1996/1298 (N.I.8).	Ombudsman (Northern Ireland) Order 1996.	Article 3(3).
		In Schedule 5, the amendments of sections 19 to 22 of the Northern Ireland Constitution Act 1973 and the Northern Ireland Act 1974.
S.I. 1997/869 (N.I.6).	Race Relations (Northern Ireland) Order 1997.	Article 42(1) and (3) to (5).
		Schedule 1.
		In Schedule 2, paragraphs 1 and 7.
1998 c.12.	Northern Ireland (Elections) Act 1998.	The whole Act.

1998 c.32.	Police (Northern Ireland) Act 1998.	Section 1(2).
		Section 18(4).
1998 c.47.	Northern Ireland Act 1998.	In Schedule 13, paragraph 18.
1998 c.48.	Registration of Political Parties Act 1998.	In section 2(2)(e) the word “New”.
S.I. 1998/749 (N.I.4).	Financial Provisions (Northern Ireland) Order 1998.	Article 7.

Changes to legislation:
There are currently no known outstanding effects for the Northern Ireland Act 1998.