

# NORTHERN IRELAND (MISCELLANEOUS PROVISIONS) ACT 2006

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## EXPLANATORY NOTES

### OVERVIEW

#### **Parts 1 and 2: Registration of electors and the Chief Electoral Officer**

4. The purpose of these Parts of the Act is to give effect to the proposals put forward in a consultation paper published by the Northern Ireland Office on 5<sup>th</sup> August 2005 entitled *Electoral registration in Northern Ireland: Proposals on the future of electoral registration in Northern Ireland*.
5. The Government published its response to the results of this consultation exercise on 24<sup>th</sup> January 2006.
6. The new **electoral registration** scheme replaces the annual Northern Ireland canvass with a system of more extensive continuous updating of the Northern Ireland electoral registers (“the register”) in order to enhance comprehensiveness and remove the need for individual electors to re-register every year. It is intended to combat a downward drift in numbers registered and the possibilities for fraud. It builds on the measures introduced by the [Electoral Fraud \(Northern Ireland\) Act 2002 \(c.13\)](#).
7. The Act also amends the statutory terms and conditions of the **Chief Electoral Officer for Northern Ireland**, to bring them into line with terms that are now standard for similar appointments. It restricts the office holder’s tenure, so that a CEO is appointed for no more than five years at a time, and may hold office for no more than ten years in total. It also provides clear criteria for dismissal.

#### **Part 3: Donations for political purposes**

8. The purpose of this Part is to give effect to the proposals put forward in a consultation paper entitled *Political donations in Northern Ireland: Proposals on the future of donations to political parties in Northern Ireland*. The paper was published by the Northern Ireland Office on 5<sup>th</sup> August 2005 and the Government published its response to the results of consultation on 24<sup>th</sup> January 2006.
9. The proposed measures on political donations aim to exert more effective control over donations to political parties in Northern Ireland, by aligning the rules for Northern Ireland more closely with those that apply in the rest of the UK under the [Political Parties, Elections and Referendums Act 2000 \(c.41\)](#) (“the 2000 Act”). They are also intended to introduce more transparency into the donations process.
10. From 1<sup>st</sup> November 2007 the measures will require Northern Ireland parties to submit donations reports to the Electoral Commission. However, to guard against intimidation of legitimate donors, reports submitted before the end of October 2010 (or later, if this period is extended with the approval of Parliament) will remain confidential. The measures will also seek to limit donations from overseas to Northern Ireland parties. But in doing this they will recognise the special position of Ireland in Northern Ireland’s

political culture by allowing donations from Irish citizens and organisations if they fulfil criteria which will be set out later, in secondary legislation.

#### **Part 4: Devolution of policing and justice etc.**

11. In the Belfast Agreement of 1998 the British Government said that in principle, and following consultation with the Irish Government, it would be ready to devolve responsibility for policing and justice issues if the Northern Ireland political parties agreed. The 2003 Joint Declaration by the British and Irish Governments (“the Joint Declaration”) undertook to address and agree the practicalities of the proposed devolution, with a view to introducing the necessary legislation in the Westminster Parliament at the earliest opportunity.
12. Consequently, responsibility for those policing, justice and associated functions which are designated as “reserved matters” under the [Northern Ireland Act 1998 \(c.47\)](#) (“the 1998 Act”) will be transferred, when circumstances are right, to the Northern Ireland Assembly (“the Assembly”) and Executive. The British Government and UK Parliament will retain responsibility for “excepted matters” such as defence of the realm, the armed forces and national security.
13. This Act does not itself initiate the devolution process. That will not happen until the Northern Ireland parties have been able to concur on institutional models for devolved functions which the British Government agrees are robust, workable and sustainable. Also, for devolution to occur, other conditions will need to be satisfied. In particular, the Assembly will need to be restored, and a resolution requesting devolution will need to be passed by the Assembly with the support of a majority of the designated Nationalists voting and a majority of the designated Unionists voting (see section 16 of the Act).
14. To help enable the eventual devolution to be carried out by order, without the need for further primary legislation, the Act makes provision allowing the Assembly to put in place various arrangements for Ministerial appointments to a new policing and justice department.

#### **Part 5: Miscellaneous**

##### **Arms decommissioning: extension of amnesty period**

15. The Act enables the end date for the amnesty period under the [Northern Ireland Arms Decommissioning Act 1997 \(c.7\)](#) to be changed so as to be on or before 27<sup>th</sup> February 2010 (instead of on or before 27<sup>th</sup> February 2007). The amnesty period is the period during which people are immune from prosecution for certain offences (set out in the Schedule to the 1997 Act) if they are acting in accordance with a decommissioning scheme.

##### **Northern Ireland loans limit**

16. The Act amends the [Northern Ireland \(Loans\) Act 1975 \(c.83\)](#) by increasing from £2000 million to £3000 million the aggregate limit on specified loans for capital purposes to the Northern Ireland Consolidated Fund. It also allows the Secretary of State, by order and with the consent of the Treasury, to further increase the limit by an amount not exceeding £500 million. It removes the limitation on the number of times such an increase may take place but each increase will need to be approved by the Treasury.

##### **Single wholesale electricity market**

17. The Act provides that an Order in Council may give effect to any agreement or arrangement between the British and Irish governments on the creation or operation of a single wholesale electricity market in Northern Ireland and Ireland. These proposals for a single wholesale electricity market were developed under the All-Island Energy Market Development Framework, agreed by the British and Irish Governments in 2004.

The aim of the proposals is to enhance Northern Ireland's security and diversity of supply; provide greater competition and investment opportunities from a stable market with transparent and equitable trading arrangements; and encourage market efficiencies and economies of scale.

### **Financial assistance for energy purposes**

18. The Act amends the [Energy \(Northern Ireland\) Order 2003 \(S.I. 2003/419 \(N.I. 6\)\)](#) by extending the legislative powers covering the provision of financial assistance to energy projects. Existing Article 61 of that Order, which is focused on the provision of grants to the electricity and gas industries, is being replaced to enable assistance to be given to a wider range of energy-related projects and, in particular, renewable energy. The extended provision will allow use of the new £59 million Environment and Renewable Energy Fund which has been established to support renewable energy projects over the next two years. It will also address proposals published on 30<sup>th</sup> June 2004 as *Energy: A Strategic Framework for Northern Ireland*, and specifically the objective of enhancing sustainable energy supply and consumption.

### **Sustainable development**

19. The Act imposes a statutory duty on all Northern Ireland government departments and district councils to act in the manner which they consider best contributes to sustainable development. It also gives to the Office of the First Minister and deputy First Minister a power to extend the duty, by order, to other public authorities.

### **Extension of provisions of SOCAP 2005 to Northern Ireland**

20. The Act extends the provisions on investigatory powers in Chapter 1 of Part 2 of the [Serious Organised Crime and Police Act 2005 \(c.15\)](#) to Northern Ireland. It also makes the Director of Public Prosecutions for Northern Ireland an "Investigating Authority" for the purpose of those provisions.

### **Responsibilities in relation to the health and safety etc. of police**

21. The Act provides a person who holds the office of Chief Constable of the Police Service of Northern Ireland ("PSNI") with "corporation sole" status, and amends relevant health and safety and other legislation so that any prosecution under that legislation will ordinarily be brought against the Chief Constable in his capacity as office holder, rather than against him personally. This brings Northern Ireland into line with police forces in Great Britain.

### **Duty to fill judicial vacancies**

22. The Act places a duty on the Prime Minister to fill any vacancy in the office of the Lord Chief Justice or Lord Justice of Appeal (both before and after devolution of justice functions). The provision also places a duty on the Lord Chancellor to fill judicial vacancies at High Court level or below. However, these duties will not apply if the Lord Chief Justice of Northern Ireland agrees that a vacancy in an office (except that of Lord Chief Justice) may remain unfilled.