

DEPARTMENT OF JUSTICE ACT

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Department of Justice Act (Northern Ireland) 2010 which received Royal Assent on 12 February 2010. They have been prepared by the Office of the First Minister and deputy First Minister in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The Notes need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section or Schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. On 20 January 2009, the Assembly resolved that a report of the Assembly and Executive Review Committee on the arrangements for the devolution of policing and justice matters be approved. The report did not specify a date for devolution, and its 15 recommendations dealt with some, but not all, of the issues that needed to be addressed before the Assembly would request the transfer of policing and justice powers. The Act reflects several of the recommendations of the report. Its provisions also apply in the context of the Northern Ireland Act 2009.
4. The purpose of the Department of Justice (Northern Ireland) Act 2010 is twofold. Firstly it creates a new Northern Ireland department, the Department of Justice, and, secondly, it makes arrangements to enable the appointment of a Minister who will be in charge of that Department. This is to provide for a department to take receipt of the transferred powers and for a Minister to be appointed to exercise those powers from the point of transfer. The Act does not, in itself, give effect to a transfer of policing and justice powers.
5. By virtue of the Northern Ireland Act 2009, the Department will cease to exist on 1 May 2012 unless certain steps set out in that Act are taken by the Assembly before that date.

CONSULTATION

6. The policy proposals underpinning the Bill were subject to detailed scrutiny in the Assembly debate (20 January 2009) which preceded the carrying of the motion approving the report of the Assembly and Executive Review Committee. In addition, the provisions in the Act make only essential preparations for the transfer of policing

and justice powers and do not of themselves give effect to devolution of such powers. Consequently, pre-legislative consultation on the Act was not considered necessary. During the legislative stages of the Bill, the Committee invited submissions from the public but none were forthcoming within the time frame set.

OPTIONS CONSIDERED

7. The options considered were to take no legislative action until there was a decision of the Assembly to request the transfer of policing and justice powers from the United Kingdom Government; or to make essential statutory preparations in advance of any such future decision, so a transfer of powers could be given effect in the shortest possible timescale.
8. Given the scale and importance of the functions which would transfer on the devolution of policing and justice powers, it was considered necessary for the transfer to occur without undue delay following an Assembly decision to proceed. In order that the lead-in process to devolution should be as straight-forward and short as possible, essential statutory preparations were, where possible, made in advance of an Assembly decision to proceed. The option of taking no legislative action was not considered appropriate and the preference was for the introduction of the Bill prior to a decision of the Assembly to request devolution of policing and justice powers.

OVERVIEW

9. The Act contains 3 sections and a Schedule.

COMMENTARY ON SECTIONS

Section 1 – The Department of Justice

Section 1 establishes the Department of Justice as a Northern Ireland department, prescribes its intended functions, and makes consequential amendments to insert the Department's name in Schedule 1 of the Departments (Northern Ireland) Order 1999 (which lists the Northern Ireland departments) and also in Schedule 2 of the Ombudsman (Northern Ireland) Order 1996 (which lists the bodies subject to investigation).

Section 2 – Minister in charge of Department of Justice

Section 2 sets out the arrangements for appointing the Minister of Justice.

Section 3 – Short title and commencement

Section 3 sets out the title of the Act and arrangements for its commencement. It comes into operation on such day as the First Minister and deputy First Minister may by order appoint.

*These Notes refer to the Department of Justice Act (Northern Ireland) 2010(c.3)
which received Royal Assent on 12 February 2010.*

Schedule

The Schedule to the Act amends references to “justice department” in certain other legislation by substitution of “Department of Justice”, thus ensuring consistency of terminology.

HANSARD REPORTS

10. The following table sets out the dates of the stages of the Act’s passage through the Assembly and the debates for those stages are set out in Hansard.

STAGE	DATE
Introduction of the Bill to the Committee for the Office of the First Minister and deputy First Minister	9 September 2009
Introduction to the Assembly	14 September 2009
Second Stage debate	22 September 2009
Committee Stage – Consideration of written submission from the Assembly and Executive Review Committee and discussion of the Bill’s clauses.	7 October 2009
Committee Stage – Clause by clause scrutiny of the Bill and consideration of response to the Committee’s public consultation on the Bill.	14 October 2009
Committee Stage – Consideration of Committee’s draft report (NIA 18/09/10R)	21 October 2009
Consideration Stage in the Assembly	10 November 2009
Further Consideration Stage	23 November 2009
Final Stage	1 December 2009
Royal Assent	12 February 2010

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