

Draft Order in Council laid before Parliament under section 86(6) of the Northern Ireland Act 1998, for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

2002 No. (N.I.)

NORTHERN IRELAND

**Northern Ireland Act 1998 (Modification
of Enactments) Order 2002**

Made - - - - 2002
Coming into force - - 2002

At the Court at , the day of 2002,
Present,
The Queen's Most Excellent Majesty in Council

Whereas a draft of this order has been laid before and approved by resolution of each House of Parliament:

And whereas it appears to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, the Northern Ireland Act 1998(1).

Now, therefore, Her Majesty, in exercise of the powers conferred upon Her by section 86(1), (3)(a) and (4) of the Northern Ireland Act 1998, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Northern Ireland Act 1998, (Modification of Enactments) Order 2002 and shall come into force on the day after the day on which it is made.

(2) In this Order “the Northern Ireland Department” means the Northern Ireland Department of Agriculture and Rural Development.

Agriculture Act 1957

2.—(1) In this Article “the 1957 Act” means the Agriculture Act 1957(2).

(1) 1998 c. 47.
(2) 5&6 Eliz 2 c. 57.

(2) Any function under the 1957 Act which is exercisable by the Secretary of State concerned with agriculture in Northern Ireland acting alone shall instead be exercisable by the Northern Ireland Department.

(3) The Secretary of State concerned with agriculture in Northern Ireland shall cease to be amongst those persons who may, acting jointly, make an order under section 5, insofar as it relates to Northern Ireland, or under section 6 of the 1957 Act, but the function of so making such an order shall be exercisable only with the consent of the Northern Ireland Department.

(4) Sections 9(3) and 35(2) of the 1957 Act do not apply to an order which, by virtue of paragraph (2), is made by the Northern Ireland Department, but any such order shall be laid before the Northern Ireland Assembly as soon as may be after it is made, and shall cease to have effect (without prejudice to anything previously done thereunder or to the making of a new order) on the expiration of the period of forty days beginning on the day on which it comes into force unless within that period it has been approved by resolution of the Northern Ireland Assembly.

(5) In sections 6(3)(b) and 9(4) of the 1957 Act, where “the Minister” refers to the Secretary of State concerned with agriculture in Northern Ireland or to that Secretary of State and other persons acting jointly, the term shall be modified so as instead to refer to the Northern Ireland Department or that Department and those persons acting jointly.

Agricultural Marketing Act 1958

3.—(1) In this Article “the 1958 Act” means the Agricultural Marketing Act 1958(3).

(2) In section 13(1)(e) of the 1958 Act, where “the Minister” includes the Secretary of State concerned with agriculture in Northern Ireland, the term shall be modified so as instead to include the Northern Ireland Department.

(3) The Secretary of State concerned with agriculture in Northern Ireland shall cease to be amongst the Ministers who, acting jointly, may exercise any of the functions conferred by the provisions set out in paragraph (4), and such functions as would, in accordance with section 52(1) of the 1958 Act, be exercisable by that Secretary of State acting jointly with one or more of the following, namely another Minister of the Crown, the Scottish Ministers and the National Assembly for Wales, shall instead be exercisable by the Northern Ireland Department acting jointly with such other person or persons.

(4) The provisions referred to in paragraph (3) are sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 16, 19, 19A, 20, 21, 26, 28, 30, 31, 32, 43, 44 and 45 of the 1958 Act.

(5) In section 30 of the 1958 Act, the requirement for the Ministers to lay a report before Parliament shall include a requirement for the Northern Ireland Department to lay a copy of the report before the Northern Ireland Assembly.

Lands Tribunal and Compensation Act (Northern Ireland) 1964

4. The function of making an order under section 2(5) of the Lands Tribunal and Compensation Act (Northern Ireland) 1964(4), shall be exercisable by the Department of Finance and Personnel instead of by the Secretary of State for Northern Ireland(5).

(3) 6&7 Eliz 2 c. 47.

(4) 1964 c. 29.

(5) By virtue of paragraph 8(1)(c) of Schedule 12 to the Northern Ireland Act 1998, the reference in section 2(5) to the making of an Order in Council by the Governor is to be construed as a reference to the making of an order by the Secretary of State.

Plant Varieties and Seeds Act 1964

5. For section 39(3)(a)(ii) of the Plant Varieties and Seeds Act 1964⁽⁶⁾ there shall be substituted—

“(ii) any power expressed to be exercisable by “the Ministers” were exercisable by them only with the consent of the Northern Ireland Department of Agriculture and Rural Development; and”.

Cereals Marketing Act 1965

6.—(1) In this Article—

“the 1965 Act” means the Cereals Marketing Act 1965⁽⁷⁾, and

“the Authority” means the Home-Grown Cereals Authority established under section 1 of the 1965 Act.

(2) Subject to paragraph (3), any function under the 1965 Act which is exercisable in relation to the Authority by the Secretary of State for Northern Ireland acting jointly with any one or more of the following, namely another Minister of the Crown, the Scottish Ministers and the National Assembly for Wales, shall instead be exercisable by the Northern Ireland Department acting jointly with such other person or persons.

(3) Paragraph (2) shall not apply to any function of making Orders under sections 7, 13 and 16 of, and Schedule 3 to, the 1965 Act.

(4) The Secretary of State for Northern Ireland shall cease to be amongst the Ministers who, acting jointly, may exercise the functions referred to in paragraph (3) and the functions under section 6 of the Agriculture Act 1986⁽⁸⁾ (Extension of the 1965 Act to new cereals and other crops), but such functions shall only be exercisable with the consent of the Northern Ireland Department.

(5) In sections 17(2)(c) and 21 of the 1965 Act, where “the Ministers” includes the Secretary of State concerned with agriculture in Northern Ireland, the term shall be modified so as instead to include the Northern Ireland Department.

(6) In section 21 of the 1965 Act, any requirement for the Ministers to lay a copy of a report or statement before each House of Parliament shall include a requirement for the Northern Ireland Department to lay a copy of the report or statement before the Northern Ireland Assembly.

Agricultural Marketing Act 1983

7.—(1) In this Article “the 1983 Act” means the Agricultural Marketing Act 1983⁽⁹⁾.

(2) Any function under the 1983 Act in relation to Food from Britain which is exercisable by the Secretary of State for Northern Ireland acting alone shall instead be exercisable by the Northern Ireland Department.

(3) Any function under the 1983 Act in relation to Food from Britain which is exercisable by the Secretary of State for Northern Ireland acting jointly with one or more of the following, namely another Minister of the Crown, the Scottish Ministers and the National Assembly for Wales, shall instead be exercisable by the Northern Ireland Department, acting jointly with such other person or persons.

(4) In section 5(7) of the 1983 Act, the requirement for the Ministers to lay copies of documents before Parliament shall include a requirement for the Northern Ireland Department to lay copies of the documents before the Northern Ireland Assembly.

(6) 1964 c. 14.

(7) 1965 c. 14.

(8) 1986 c. 49.

(9) 1983 c. 3.

(5) In section 5(8) of the 1983 Act, the reference to “the Comptroller and Auditor General” shall be deemed to include a reference to the Comptroller and Auditor General for Northern Ireland.

Plant Varieties Act 1997

8.—(1) In this Article—

“the 1997 Act” means the Plant Varieties Act 1997⁽¹⁰⁾,

“the Office” means the Plant Variety Rights Office continued under section 2 of the 1997 Act;

“the Controller” means the Controller of Plant Variety Rights constituted under section 2 of the 1997 Act; and

“the Tribunal” means the Plant Varieties and Seeds Tribunal continued under section 42 of the 1997 Act.

(2) Subject to paragraph (3), any function under the 1997 Act which is—

(a) exercisable in relation to the Office, the Controller or the Tribunal; and

(b) exercisable by the Secretary of State for Northern Ireland acting jointly with one or more of the following, namely another Minister of the Crown, the Scottish Ministers and the National Assembly for Wales,

shall instead be exercisable by the Northern Ireland Department acting jointly with such other person or persons.

(3) Paragraph (2) shall not apply to any function of making regulations or orders under sections 6(6), 9(7), 9(12), 11(2), 14(5), 15(6), 17(8), 18, 22(2), 24, 26(2), 28, 29, 44 and 48 of the 1997 Act.

(4) The Secretary of State for Northern Ireland shall cease to be amongst the Ministers who, acting jointly, may exercise the functions referred to in paragraph (3), but any such functions shall only be exercisable with the consent of the Northern Ireland Department.

(5) The Secretary of State for Northern Ireland shall cease to be amongst the Ministers who, acting jointly, may by order designate any country or territory for the purposes of paragraph 6(2) or Schedule 2 to the 1997 Act, but no such designation order may be made without the consent of the Northern Ireland Department.

(a) (6) (a) The function of making rules under paragraph 13 of Schedule 3 to the 1997 Act shall be exercisable in relation to Northern Ireland by the Northern Ireland Department instead of by the Lord Chancellor, and the rules shall be laid before and subject to annulment in pursuance of a resolution of the Northern Ireland Assembly instead of either House of Parliament.

(b) Any such rules made by the Northern Ireland Department shall not be exercisable by statutory instrument, but shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽¹¹⁾.

The British Wool Marketing Scheme (Approval) Order 1950

9.—(1) In this Article “the 1950 Order” means the British Wool Marketing Scheme (Approval) Order 1950⁽¹²⁾.

(2) Any function under the 1950 Order which is exercisable by the Secretary of State for Northern Ireland acting jointly with one or more of the following, namely another Minister of the Crown, the Scottish Ministers and the National Assembly for Wales, shall instead be exercisable by the Northern Ireland Minister acting jointly with such other person or persons.

⁽¹⁰⁾ 1997 c. 66.

⁽¹¹⁾ S.I.1979/1573 (NI 12).

⁽¹²⁾ S.I. 1950/1326.

Transitional and saving provisions

10.—(1) The transfer, by virtue of this Order, of any function exercisable by the Secretary of State for Northern Ireland or the Lord Chancellor to the Northern Ireland Department, or the Department of Finance and Personnel, shall not affect the validity of anything done (or having effect as if done) by or in relation to the Secretary of State or the Lord Chancellor before the transfer takes effect.

(2) Anything (including legal proceedings) which, at the time when that transfer takes effect, is in the process of being done by or in relation to the Secretary of State or the Lord Chancellor may, so far as it relates to any function transferred, be continued by or in relation to the Northern Ireland Department or, as the case may be, the Department of Finance and Personnel.

(3) Anything done (or having effect as if done) by or in relation to the Secretary of State or the Lord Chancellor for the purposes of or in connection with any function transferred to the Northern Ireland Department, or the Department of Finance and Personnel, by virtue of this Order shall, if in force at the time when the transfer takes effect, have effect as if done by or in relation to the Northern Ireland Department, or, as the case may be, the Department of Finance and Personnel, in so far as that is required for continuing its effect after that time.

Clerk of the Privy Council

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transfer of functions and the modification of certain enactments in consequence of the Northern Ireland Act 1998. It comes into force on the day after it is made.

Most of the provisions in the Order, namely Articles 2, 3 and 5 to 9, relate to functions in respect of agriculture in Northern Ireland. Agriculture is a transferred matter under the Northern Ireland Act. Subject to the exception referred to below, these functions which prior to the Order coming into effect were exercisable by the Secretary of State for Northern Ireland, in some cases acting alone, in other cases acting jointly, are transferred to the Northern Ireland Department of Agriculture and Rural Development. The exception is where the function is a joint function and relates to an order or regulation making power. In such cases, rather than being transferred, the Secretary of State for Northern Ireland ceases to be one of the parties who may exercise the function and instead the consent of the Northern Ireland Department of Agriculture and Rural Development is required to the exercise of the powers. These Articles also contain some modifications and consequential amendments. Article 8(6) transfers a rule-making function in relation to the Plant Varieties and Seeds Tribunal from the Lord Chancellor to the Northern Ireland Department of Agriculture and Rural Development.

Article 4 of the Order transfers a function under the Lands Tribunal and Compensation Act (Northern Ireland) 1964 from the Secretary of State for Northern Ireland to the Department of Finance and Personnel.

Article 10 of the Order contains transitional and saving provisions.