



# Northern Ireland Act 1974

## 1974 CHAPTER 28

An Act to provide for the dissolution of the existing Northern Ireland Assembly and its prorogation until dissolution; to make temporary provision for the government of Northern Ireland; to provide for the election and holding of a Constitutional Convention in Northern Ireland; and for purposes connected with those matters. [17th July 1974]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

### **1 Dissolution and prorogation of existing Assembly and temporary provision for government of Northern Ireland.**

- (1) Her Majesty may by Order in Council dissolve the Assembly elected under the Northern Ireland Assembly Act 1973 ; and subsection (7) of section 27 of the Northern Ireland Constitution Act 1973 (power to appoint day for new elections etc.) shall have effect on the dissolution of that Assembly under this section as if it had been dissolved by Her Majesty under subsection (5) of that section.
- (2) Unless previously recalled by Her Majesty, that Assembly shall continue prorogued until dissolved under this section.
- (3) The provisions of Schedule 1 to this Act shall have effect with respect to the exercise of legislative, executive and other functions in relation to Northern Ireland during the interim period specified by or under subsection (4) below.
- (4) The interim period shall be the period of one year beginning with the passing of this Act but the Secretary of State may by order direct that it shall continue until a date after, or end on a date earlier than, the date on which it would otherwise expire (whether by virtue of this subsection or of a previous order thereunder).
- (5) No order under subsection (4) above shall provide for the interim period to continue until a date more than one year after the date on which it would otherwise expire.

- (6) The power to make an order under subsection (4) above shall be exercisable by statutory instrument; and no order shall be made under that subsection unless a draft of it has been approved by resolution of each House of Parliament.

## **2 Constitutional Convention on future government of Northern Ireland.**

- (1) There shall be elected and held in Northern Ireland a Convention for the purpose of considering what provision for the government of Northern Ireland is likely to command the most widespread acceptance throughout the community there.
- (2) The Convention shall transmit to the Secretary of State a report or reports on its conclusions and the Secretary of State shall lay any such report before Parliament.
- (3) The Secretary of State may by order direct the holding of a poll or polls for the purpose of obtaining the views of the people of Northern Ireland on any matter contained in or arising out of a report of the Convention or otherwise concerned with the future government of Northern Ireland.
- (4) No order shall be made under subsection (3) above after the expiration of the period of six months from the dissolution of the Convention.
- (5) Any order under subsection (3) above directing the holding of a poll shall make provision as to the persons entitled to vote on the poll and may make such other provision in connection with the poll as appears to the Secretary of State to be expedient, including provision applying, with or without modifications, any enactment or statutory provision with respect to Parliamentary elections or elections to the Northern Ireland Assembly.
- (6) The power to make orders under subsection (3) above includes power to vary or revoke a previous order and shall be exercisable by statutory instrument but no such order shall be made unless a draft of the order has been approved by resolution of each House of Parliament.
- (7) Nothing in subsections (3) to (6) above shall be construed as authorising the Secretary of State to direct the holding of a poll otherwise than in accordance with Schedule 1 to the Northern Ireland Constitution Act 1973 in relation to the matters dealt with in section 1 of that Act (status of Northern Ireland as part of United Kingdom).
- (8) Schedule 2 to this Act shall have effect as respects the composition, election, proceedings and duration of the Convention.
- (9) Any costs incurred by a government department (including a Northern Ireland department) in connection with the election of the Convention or any poll under subsection (3) above shall be paid out of the Consolidated Fund of the United Kingdom: and any forfeited deposit or other sum received by such a department in connection with that election shall be paid into that Consolidated Fund.
- (10) Subject to subsection (9) above, any expenses of the Secretary of State in connection with the Convention shall be defrayed out of moneys provided by Parliament.

## **3 Short title.**

This Act may be cited as the Northern Ireland Act 1974.

## SCHEDULES

### SCHEDULE 1

Section 1(3).

#### TEMPORARY PROVISION FOR GOVERNMENT OF NORTHERN IRELAND

##### *Legislative functions*

- 1 (1) During the interim period—
  - (a) no Measure shall be passed by the Assembly; and
  - (b) Her Majesty may by Order in Council make laws for Northern Ireland and, in particular, provision for any matter for which the Constitution Act authorises or requires provision to be made by Measure.
- (2) No recommendation shall be made to Her Majesty to make any Order in Council under this paragraph containing a provision in relation to which the Secretary of State would be precluded by section 5(1) of the Constitution Act from giving his consent if it were contained in a proposed Measure.
- (3) The power to make an Order in Council under this paragraph includes power to vary or revoke a previous Order made thereunder.
- (4) No recommendation shall be made to Her Majesty to make an Order in Council under this paragraph unless either—
  - (a) a draft of the Order has been approved by resolution of each House of Parliament; or
  - (b) the Order declares that it has been made to appear to Her Majesty that by reason of urgency the Order requires to be made without a draft having been so approved.
- (5) Any Order in Council under this paragraph, other than an Order of which a draft has been approved by resolution of each House of Parliament, shall be laid before Parliament after being made and, if at the end of the period of forty days after the date on which it is made the Order has not been, approved by resolution of each House, shall then cease to have effect (but without prejudice to anything previously done under the Order or to the making of a new Order).
- (6) In reckoning the period mentioned in sub-paragraph (5) above no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (7) References to Measures in any enactment or instrument (whether passed or made before or after the passing of this Act) shall, so far as the context permits, be deemed to include references to Orders in Council under this paragraph.
- (8) Orders in Council under this paragraph may be omitted from any annual edition of statutory instruments required to be prepared under regulations made by virtue of section 8 of the Statutory Instruments Act 1946.

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*Executive functions*

- 2 (1) During the interim period—
- (a) no person shall be appointed or hold office under section 8 of the Constitution Act; and
  - (b) any functions of the head of a Northern Ireland department may be discharged by that department and any functions of any other person appointed under that section may be discharged by the Secretary of State.
- (2) During the interim period any functions of a Northern Ireland department, including functions discharged by virtue of sub-paragraph (1)0 above, shall be discharged by the department subject to the direction and control of the Secretary of State.
- (3) Anything required or authorised by or under any enactment or instrument to be done to or in relation to the head of a Northern Ireland department or any other person appointed under the said section 8 in connection with any functions exercisable by virtue of this paragraph by a substituted authority (whether a Northern Ireland department or the Secretary of State) shall, during the interim period, be done instead to or in relation to that authority.
- (4) Any enactment or instrument shall have effect, so far as may be necessary for or in consequence of the exercise of any functions by a substituted authority by virtue of this paragraph, as if references to the head of a Northern Ireland department or any other person appointed under the said section 8 were references to that authority.
- (5) This paragraph shall not invalidate anything done before the beginning of the interim period ; and,
- (a) anything which, at the beginning of that period, is in process of being done by or in relation to the head of a Northern Ireland department or any other person appointed under the said section 8 may be continued by or in relation to the substituted authority ;
  - (b) any order, regulation, rule, direction, authority, appointment, authentication, approval or other instrument or act effective at the beginning of that period as that of the head of a Northern Ireland department or any other person appointed under the said section 8 shall continue to have effect as that of the substituted authority.
- (6) The foregoing provisions of this paragraph apply to functions conferred by any enactment or instrument during as well as before the interim period except in so far as provision to the contrary is made by that enactment or instrument.

*Subordinate instruments etc.*

- 3 (1) Where under any enactment or instrument it is a condition for the taking of any step (other than the annulment of any instrument) or the coming of anything into operation that a resolution or motion has been passed or an address presented by the Assembly, then, during the interim period, that step may be taken or that thing shall come into operation without any such resolution, motion or address.
- (2) Any statutory instrument made or coming into operation by virtue of sub-paragraph (1) above shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Any statutory rules made or coming into operation by virtue of sub-paragraph (1) above shall be subject to annulment in pursuance of a resolution of either House of

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Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

- (4) So much of any enactment or instrument as makes the taking of any step or the coming of anything into operation conditional on the laying of any instrument or document before the Assembly, or on any lapse of time after an instrument or document is so laid, shall not apply during the interim period.
- (5) So much of any enactment or instrument as makes it a condition for the continuing of anything in operation that a resolution or motion has been passed or an address presented by the Assembly shall not apply in relation to anything done during the interim period or in relation to anything done previously that would, apart from this sub-paragraph, cease to have effect during that period.
- (6) No instrument made during the interim period shall be liable to annulment or capable of being revoked in pursuance of a resolution, motion or address of the Assembly; and no draft of any such instrument shall be laid before the Assembly nor shall any proceedings be taken in the Assembly with respect to a draft of any such instrument.
- (7) Regulations made during the interim period under section 4 of the Statutory Rules Act (Northern Ireland) 1958 shall not require the concurrence of the presiding officer of the Assembly.

#### *Parliamentary Commissioner and Commissioner for Complaints*

- 4 (1) During the interim period any report required to be laid before the Assembly under section 10(3) or (4) of the Parliamentary Commissioner Act (Northern Ireland) 1969 or section 11(3) of the Commissioner for Complaints Act (Northern Ireland) 1969 shall be laid instead before each House of Parliament; and the reference in subsection (5)(a) of the said section 10 to a report to the Assembly shall accordingly include a reference to a report to either House of Parliament.
- (2) During any part of the interim period for which there is no Assembly, any complaint under the Parliamentary Commissioner Act (Northern Ireland) 1969 may be made to, and referred to the Commissioner by, a member of the House of Commons; and references to a member of the Assembly in sections 5, 6 and 10 of that Act shall be construed accordingly.

#### *Accounts*

- 5 (1) The accounts and reports to which this paragraph applies shall be laid before the House of Commons instead of the Assembly.
- (2) This paragraph applies to such of the accounts and reports required by section 10, 11, 19, 21 or 22 of the Exchequer and Audit Act (Northern Ireland) 1921 to be laid before (or presented or made to) the Assembly as relate to—
  - (a) the period beginning with 1st January 1974 and ending with 31st March 1974 ;
  - (b) any financial year ending during the interim period ;
  - (c) if part of a financial year ending after the interim period falls within that period, the part falling within that period ;and for the purposes of paragraph (c) above those accounts and reports shall be prepared separately for the part there mentioned and for the remainder of the financial year in question.

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- (3) The functions of any committee constituted under section 25(8) of the Constitution Act shall not extend to the application of moneys during the interim period.

*Interpretation*

- 6 (1) In this Schedule—
- " the Assembly " means the Northern Ireland Assembly ;
  - " the Constitution Act " means the Northern Ireland Constitution Act 1973 ;
  - " enactment " includes an enactment of the Parliament of Northern Ireland and a Measure ;
  - " functions " includes duties and powers ;
  - " Measure " means a Measure of the Assembly ;
  - " statutory instrument " means a statutory instrument within the meaning of the Statutory Instruments Act 1946 ;
  - " statutory rules " has the same meaning as it has for the purposes of the Statutory Rules Act (Northern Ireland) 1958.
- (2) In this Schedule any reference to an enactment is a reference to that enactment as amended by or under any other enactment.

SCHEDULE 2

Section 2(8).

CONVENTION ON FUTURE GOVERNMENT OF NORTHERN IRELAND

*Composition and election*

- 1 The Convention shall consist of—
- (a) a chairman appointed by Her Majesty ; and
  - (b) seventy-eight persons (hereafter referred to as "Convention members ") elected in accordance with this Schedule.
- 2 The Convention members shall be elected by the constituencies which would return members to the Northern Ireland Assembly if a general election to the Assembly were held on the date appointed under paragraph 3 below; and the number of Convention members to be elected by each constituency shall be the same as the number of members of the Assembly to be returned for the constituency in such a general election.
- 3 The date of the poll for the election of Convention members shall be appointed by the Secretary of State by order made by statutory instrument; and any order under this paragraph may be varied or revoked by a subsequent order.
- 4 The persons entitled to vote on the poll mentioned in paragraph 3 above shall be those who would be entitled to vote on polls held on the date appointed under that paragraph at a general election to the Northern Ireland Assembly.
- 5 The following provisions of section 2 of the Northern Ireland Assembly Act 1973, that is to say—
- (a) subsection (3) (voting to be by single transferable vote);
  - (b) subsection (4) (deposits by candidates);

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(c) subsection (5) (power of Secretary of State by order to make provision as to conduct etc. of election),

shall apply to the election under this Schedule as they apply to an election of members of the Northern Ireland Assembly.

6 Section 10 of the House of Commons Disqualification Act 1957 and section 3 of the said Act of 1973 (disqualification for membership of Northern Ireland Assembly) shall apply in relation to the Convention as they apply in relation to the Assembly.

#### *Proceedings*

7 The first meeting of the Convention shall be held on such day, and at such time and place, as the Secretary of State may by order direct; and any order under this paragraph may be varied or revoked by a subsequent order.

8 The Convention may appoint committees to assist it in the discharge of its functions.

9 The chairman of the Convention shall not be entitled to vote in proceedings of the Convention or its committees.

10 The proceedings of the Convention and any committee appointed by it shall not be invalid because of any vacancy in the office of chairman or among the Convention members.

11 (1) Subject to the foregoing provisions, the Convention shall have power to regulate its procedure and that of its committees.

(2) Subject to the foregoing provisions and any provision made by the Convention under sub-paragraph (1) above, the Secretary of State may give directions for regulating the procedure of the Convention and its committees.

(3) Provision may, in particular, be made under this paragraph for preserving order in the proceedings of the Convention and its committees, including provision for the exclusion of Convention members from any such proceedings.

12 There shall be provided for the Convention and its members by the Secretary of State such accommodation, staff and services (including provision for the keeping of an official record of proceedings) as the Convention may with the approval of the Secretary of State determine or as may appear to him to be reasonably requisite.

13 For the purposes of the law of defamation the following shall be absolutely privileged—

- (a) the proceedings of the Convention and its committees ;
- (b) any official record of those proceedings ;
- (c) any report of the Convention under section 2(2) of this Act.

#### *Remuneration and allowances of members*

14 (1) There shall be paid by the Secretary of State to the chairman of the Convention such remuneration and allowance in respect of expenses as may be determined by the Secretary of State.

(2) There shall be paid by the Secretary of State to each Convention member—

- (a) remuneration, at the rate of £2,500 a year, in respect of the period beginning with the date on which he first attends the Convention (or a committee thereof) and ending with the dissolution of the Convention or such later date

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- (not more than six months after the dissolution) as the Secretary of State may determine ; and
- (b) such allowance as the Secretary of State may determine—
- (i) in respect of expenses incurred by the member in travelling to and from meetings of the Convention or its committees ; and
- (ii) to defray expenses incurred by the member on secretarial assistance in carrying out his duties as a member.
- (3) Any determination of the Secretary of State under sub-paragraph (1) or (2)(b) above shall require the consent of the Minister for the Civil Service.

#### *Duration of Convention*

- 15 (1) Subject to the following provisions of this paragraph, the Convention shall be dissolved—
- (a) on the date on which its final report is laid before Parliament; or
- (b) on the expiration of the period of six months beginning with the date on which it first meets,
- whichever is the earlier.
- (2) The Secretary of State may by order postpone or further postpone the date of dissolution of the Convention for such period (not exceeding three months at a time) as may be specified in the order.
- (3) Her Majesty may by Order in Council dissolve the Convention before the time when it would be dissolved under sub-paragraph (1) above.
- (4) If at any time within six months after the dissolution of the Convention (whether by virtue of the foregoing provisions or of those provisions as applied by sub-paragraph (5) below) it appears to the Secretary of State that it is desirable that any matter should be considered or further considered by the Convention, he may reconvene it as if it had not been dissolved ; and the Convention shall meet on such day, and at such time and place, as the Secretary of State may by order direct and consider (or further consider) and report on that matter accordingly.
- (5) Sub-paragraphs (1) to (3) above shall apply to the Convention after it has been reconvened under sub-paragraph (4) above as if the report made by it in accordance with that sub-paragraph were its final report and as if the date on which it meets in accordance with that paragraph were its first meeting.
- (6) Any order under sub-paragraph (2) above shall be made by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament; and any order under sub-paragraph (4) above may be varied or revoked by a subsequent order.
- (7) Where the Convention has been reconvened under this paragraph—
- (a) paragraph 14(2)(a) above shall apply also in relation to the reconvened Convention ; and
- (b) section 2(4) of this Act shall have effect as if the reference to the dissolution of the Convention were a reference to its dissolution after the occasion (or, if more than one, the last occasion) on which it was reconvened.