



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART III

#### EXECUTIVE AUTHORITIES

##### *Functions*

#### **22 Statutory functions.**

- (1) An Act of the Assembly or other enactment may confer functions on a Minister (but not a junior Minister) or a Northern Ireland department by name.
- (2) Functions conferred on a Northern Ireland department by an enactment passed or made before the appointed day shall, except as provided by an Act of the Assembly or other subsequent enactment, continue to be exercisable by that department.

#### **23 Prerogative and executive powers.**

- (1) The executive power in Northern Ireland shall continue to be vested in Her Majesty.
- (2) As respects transferred matters, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall, subject to [<sup>F1</sup>subsections (2A) and (3)] , be exercisable on Her Majesty's behalf by any Minister or Northern Ireland department.
- [<sup>F2</sup>(2A) So far as the Royal prerogative of mercy is exercisable on Her Majesty's behalf under subsection (2), it is exercisable only by the Minister in charge of the Department of Justice.]
- (3) As respects the Northern Ireland Civil Service and the Commissioner for Public Appointments for Northern Ireland, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall be exercisable on Her Majesty's behalf by the First Minister and the deputy First Minister acting jointly.

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- (4) The First Minister and deputy First Minister acting jointly may by prerogative order under subsection (3) direct that such of the powers mentioned in that subsection as are specified in the order shall be exercisable on Her Majesty's behalf by a Northern Ireland Minister or Northern Ireland department so specified.

**Annotations:**

**Amendments (Textual)**

- F1** Words in s. 23(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), **24(2)** (with arts. 25, 28-31)
- F2** [S. 23\(2A\)](#) 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), **24(3)** (with arts. 25, 28-31)

**24** **[<sup>F3</sup>EU] law, Convention rights etc.**

- (1) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act—
- is incompatible with any of the Convention rights;
  - is incompatible with [<sup>F3</sup>EU] law;
  - discriminates against a person or class of person on the ground of religious belief or political opinion;
  - in the case of an act, aids or incites another person to discriminate against a person or class of person on that ground; or
  - in the case of legislation, modifies an enactment in breach of section 7.
- (2) Subsection (1)(c) and (d) does not apply in relation to any act which is unlawful by virtue of the [<sup>F4</sup>Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of [<sup>F4</sup>Part VIII of that Order].

**Annotations:**

**Amendments (Textual)**

- F3** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))
- F4** Words in s. 24(2) substituted (1.3.1999) by [S.I. 1998/3162 \(N.I. 21\)](#), art. 105(1), **Sch. 3**; [S.R. 1999/81](#), **art. 3(1)**

**25** **Excepted and reserved matters.**

- (1) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision dealing with an excepted or reserved matter, the Secretary of State may by order revoke the legislation.
- (2) An order made under subsection (1) shall recite the reasons for revoking the legislation and may make provision having retrospective effect.

**26** **International obligations.**

- (1) If the Secretary of State considers that any action proposed to be taken by a Minister or Northern Ireland department would be incompatible with any international

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obligations, with the interests of defence or national security or with the protection of public safety or public order, he may by order direct that the proposed action shall not be taken.

- (2) If the Secretary of State considers that any action capable of being taken by a Minister or Northern Ireland department is required for the purpose of giving effect to any international obligations, of safeguarding the interests of defence or national security or of protecting public safety or public order, he may by order direct that the action shall be taken.
- (3) In subsections (1) and (2), “action” includes making, confirming or approving subordinate legislation and, in subsection (2), includes introducing a Bill in the Assembly.
- (4) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision which the Secretary of State considers—
  - (a) would be incompatible with any international obligations, with the interests of defence or national security or with the protection of public safety or public order; or
  - (b) would have an adverse effect on the operation of the single market in goods and services within the United Kingdom,the Secretary of State may by order revoke the legislation.
- (5) An order under this section shall recite the reasons for making the order and may make provision having retrospective effect.

## **27 Quotas for purposes of international etc obligations.**

- (1) A Minister of the Crown may make an order containing provision such as is specified in subsection (2) where—
  - (a) an international obligation or an obligation under [F<sup>3</sup>EU] law is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise); and
  - (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which is or includes the whole or part of Northern Ireland).
- (2) The provision referred to in subsection (1) is provision for the achievement by a Minister or Northern Ireland department (in the exercise of his or its functions) of so much of the result to be achieved under the international obligation or obligation under [F<sup>3</sup>EU] law as is specified in the order.
- (3) The order may specify the time by which any part of the result to be achieved by the Minister or department is to be achieved.
- (4) Where an order under subsection (1) is in force in relation to an international obligation or an obligation under [F<sup>3</sup>EU] law, the obligation shall have effect for the purposes of this Act as if it were an obligation to achieve so much of the result to be achieved under the obligation as is specified in the order by the time or times so specified.
- (5) No order shall be made by a Minister of the Crown under subsection (1) unless he has consulted the Minister or department concerned.

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**Annotations:****Amendments (Textual)**

- F3** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

**28 Agency arrangements between UK and NI departments.**

- (1) Arrangements may be made between—
- (a) any department of the Government of the United Kingdom or any public body, or holder of a public office, in the United Kingdom; and
  - (b) any Northern Ireland department,
- for any functions of one of them to be discharged by, or by officers of, the other.
- (2) No such arrangements shall affect the responsibility of the person on whose behalf any functions are discharged.
- (3) In this section—
- (a) references to a department of the Government of the United Kingdom include references to any Minister of the Crown; and
  - (b) references to a Northern Ireland department include references to a Minister.

**Annotations:****Modifications etc. (not altering text)**

- C1** [S. 28](#) modified (7.4.2005 at 5:45 pm) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. [15\(2\)](#), S.I. 2005/1126, {art. 2}

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**Changes and effects yet to be applied to :**

- s. 24 heading words inserted by 2018 c. 16 Sch. 3 para. 55(b)
- s. 24 heading words omitted by 2018 c. 16 Sch. 3 para. 55(a)

**Changes and effects yet to be applied to the whole Act associated Parts and Chapters:**

- Act modified (cond.) by 2006 c. 17 Sch. 2 para. 2(5) (This amendment not applied to legislation.gov.uk. Conditional amendment never in force)

Whole provisions yet to be inserted into this Act (including any effects on those provisions):

- s. 6A inserted by 2018 c. 16 s. 12(6)
- s. 6A power to repeal conferred by 2018 c. 16 s. 12(9)-(11)
- s. 7(1)(e) and word inserted by 2018 c. 16 Sch. 3 para. 51(2)(d)
- s. 7(2A) inserted by 2018 c. 16 Sch. 3 para. 51(4)
- s. 24(3)-(15) inserted by 2018 c. 16 Sch. 3 para. 3(b)
- s. 24(3)-(15) power to repeal conferred by 2018 c. 16 s. 12(9)-(11)
- s. 27(4A) inserted by 2018 c. 16 Sch. 3 para. 56(5)
- s. 31(2)-(2D) substituted for s. 31(2) (cond.) by 2006 c. 17 Sch. 3 para. 2(1) (This amendment not applied to legislation.gov.uk. Conditional amendment never in force)
- s. 31(2)-(2D) substituted for s. 31(2) (cond.) by 2006 c. 53 Sch. 3 para. 2(1) (This amendment This amendment not applied to legislation.gov.uk to legislation.gov.uk. It is a conditional amendment that was never brought into force. Sch. 3 repealed (10.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), s. 2(5) (as amended by 2007 c. 4, s. 1(1)), Sch. 4 para. 3 (with s. 1(3)); S.I. 2007/1397, art. 2)
- s. 31(2E) inserted (cond.) by 2006 c. 17 Sch. 3 para. 3(1) (This amendment not applied to legislation.gov.uk. Conditional amendment never in force)
- s. 96(4A) inserted by 2018 c. 16 Sch. 3 para. 57
- s. 96A inserted by 2018 c. 16 Sch. 3 para. 58
- Sch. 2 para. 9B inserted by 2009 c. 8 s. 27 (This amendment not applied to legislation.gov.uk. The amending provision was repealed (16.2.2011) without ever being in force by 2010 c. 36, ss. 2(1), 4(2))
- Sch. 3 para. 9(1)(a)-(ac) substituted for Sch. 3 para. 9(a) by 2016 c. 25 Sch. 10 para. 2