

*These notes refer to the Northern Ireland Act 2000 (c.1)
which received Royal Assent on 10th February 2000*

NORTHERN IRELAND ACT 2000

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Northern Ireland Act which received Royal Assent on 10th February 2000. They have been prepared by the Northern Ireland Office in order to assist the reader of the Act and to help inform debate on it. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. On 2nd December 1999 legislative and executive authority over a range of matters was transferred to the Northern Ireland Assembly. This followed the conclusion of a Review of the Implementation of the Belfast Agreement carried out by Senator George Mitchell. Announcing the outcome of the Review to Parliament (Hansard, 22nd November), the Secretary of State also indicated that should future circumstances require it the operation of the Assembly (and other institutions) could be suspended.
4. This Act provides for the suspension of the operation of devolved government in Northern Ireland.
5. The Act provides for executive responsibility for Northern Ireland to revert to the Secretary of State, and for the legislative power of the Assembly to be exercisable by Order in Council, during the suspension period.
6. The Secretary of State can end the period of suspension by making an order (referred to as a 'Restoration Order'). Before doing so he must take into account the outcome of a Review (see below).

COMMENTARY

Section 1: Suspension of devolved Government in Northern Ireland

7. This section suspends the operation of the Northern Ireland Assembly and sets out in *subsections (2) – (7)* some specific functions and activities of the Assembly that cannot take place during the suspension period. These include:
 - The Assembly and/or its committees cannot meet or conduct any business.
 - The Assembly cannot pass any legislation.
 - Ministers will not hold office and there can be no appointments to office.

Subsection (8) refers to the Schedule of the Act. This sets out details of how Assembly business and functions will be carried out during the suspension period and is dealt with in more detail below.

Section 2: Ending the period of suspension

8. The section sets out the conditions that must be fulfilled before the Secretary of State can end the suspension of the Northern Ireland Assembly.
9. Under *subsection (1)* the Secretary of State has to initiate a 'Review' under the Validation, Implementation and Review section of the Belfast Agreement. The relevant text from the Agreement is as follows:

If difficulties arise which require remedial action across the range of institutions, or otherwise require amendment of the British-Irish Agreement or relevant legislation, the process of review will fall to the two Governments in consultation with the parties in the Assembly. Each Government will be responsible for action in its own jurisdiction.

(paragraph 7 of Validation, Implementation and Review, Belfast Agreement (Cm 3883))
10. To end the suspension of the Assembly and institutions the Secretary of State can make an Order (a Restoration Order) under *subsection (2)* that makes section 1 of the Act (dealing with the practicalities of suspension) cease to have effect. However, before he makes such an Order, he has to take into account the result of the Review that has been undertaken. Any expenses associated with the review which fall to be met by the United Kingdom will be paid by the Secretary of State.

Section 3: Effect of Restoration

11. The section provides for the automatic re-appointment of Ministers and chairmen and deputy chairmen of committees to their previous positions after a Restoration Order has been made, provided they remain eligible to hold office.
12. If such a position is vacant after the suspension of the Assembly has been lifted, replacements will need to be appointed. *Subsections (3) to (5)* allow for the joint election of new First and Deputy First Ministers under the relevant parts of section 16 of the Northern Ireland Act 1998. Under that Act the First and Deputy First Ministers must stand for election as a pair of candidates, one each from the two traditions, and must be elected as a pair. *Subsection (7)* allows for the appointment of Ministers and Committee chairmen and deputy chairmen using the d'Hondt formula that allocates positions according to party strengths in the Assembly.

Section 4: Further suspension by order

13. Revocation of a Restoration Order made under section 2 has the effect, under section 4, of bringing section 1 of the Act into force again, so suspending the operation of the Assembly and the holding of the offices referred to in section 1.

Section 5: Implementation Bodies

14. The section directs the Secretary of State to transfer any of the functions of the cross-border Implementation Bodies to the relevant Northern Ireland Department in line with arrangements made under an International Agreement with the Irish Government. Should the Secretary of State make a Restoration Order (as detailed above), he must return any transferred functions to the Implementation Body that exercised them at the time this Act came into force, where any such agreement so requires.

Section 7: Orders made under this Act: supplemental provision

15. The section covers technical provisions about the making of secondary legislation under the Act. Any statutory instrument made by the Secretary of State (except those expressly mentioned in subsections (3) and (4)) is subject to the affirmative resolution procedure; and all such affirmative resolution instruments, save for that under paragraph 1(4) of the Schedule, may be made under the urgency procedure.

Section 8: Interpretation etc.

16. The section defines some of the phrases used in the Act and refers to other definitions given in the Northern Ireland Act 1998. It also provides, in *subsection (2)*, that any phrase used both in this Act and in the 1998 Act will have the same meaning.

Schedule 1

17. The Schedule to the Act sets out how the functions of the Assembly and its Ministers and the Northern Ireland Departments will be discharged during a period of suspension. These are mostly technical provisions and are generally designed to return the operation of Northern Ireland matters to the way they were handled immediately prior to the devolution of power.
18. *Paragraph 1* enables legislation that would normally be made by the Northern Ireland Assembly to be passed by Order in Council for the first six months of any suspension period. *Sub-paragraph (4)* allows the Secretary of State to increase that period in extensions of not more than six months at a time. Any order to extend the period would be subject to affirmative resolution by both Houses of Parliament.
19. *Paragraph 2* sets out the Parliamentary controls that apply to Orders in Council under paragraph 1. Each Order in Council has to be debated and approved by Parliament either before it comes into force, or within 40 days of its being made. *Paragraph 3* ensures that such Orders are included within references to Assembly legislation.
20. Under *paragraph 4* the functions of the First and Deputy First Ministers fall to the Secretary of State to exercise and the functions of Northern Ireland Ministers to their Departments. Ministers in the Northern Ireland Office will assume responsibility for and control of the Northern Ireland Departments during the suspension period, under the direction of the Secretary of State. *Paragraph 4(1)(d)* removes temporarily the legislative obligation on the First and Deputy First Ministers to set up a consultative Civic Forum in Northern Ireland.
21. The remainder of *paragraph 4*, and *paragraph 7*, consist of technical provisions to ensure that the Secretary of State can take full responsibility and control of the functions of Northern Ireland Departments. They also provide that anything that would have needed to be put to the Assembly can be dealt with while the Assembly is suspended.
22. *Paragraph 5* ensures that during a suspension period, the legislative provisions which would otherwise be triggered to fill vacancies occasioned by the First and Deputy First Minister and other office holders ceasing to hold office under section 1 do not operate.
23. *Paragraph 8* suspends the Assembly Commission; its functions are exercisable by the Secretary of State. It also provides, under *sub-paragraph 3*, for any expenditure incurred by him as a result to be paid for by money provided by Parliament.
24. Under *paragraph 9* the Secretary of State takes responsibility for Assembly salaries, pensions and other payments for the duration of the suspension period.

COMMENCEMENT

25. The Act (other than subsections (1) and (2) of section 9, which took effect on Royal Assent) came into force on 12th February 2000 by means of an Order made by the Secretary of State under section 9(2) (*S.I. 2000/396 (C.10)*).

<i>Date</i>	<i>Parliamentary Stage</i>	<i>Hansard Reference</i>
8 th February 2000	Commons Second Reading	Columns 128-180
8 th February 2000	Commons Committee, Report and Third Reading	Columns 180-220

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<i>Date</i>	<i>Parliamentary Stage</i>	<i>Hansard Reference</i>
9 th February 2000	Lords Second Reading	Columns 664-704
10 th February 2000	Lords Committee, Report and Third Reading	Columns 776-797