



# Northern Ireland (Miscellaneous Provisions) Act 2006

## 2006 CHAPTER 33

### PART 5

#### MISCELLANEOUS

#### **21 Arms decommissioning: extension of amnesty period**

In section 2(3)(b) of the Northern Ireland Arms Decommissioning Act [1997 \(c. 7\)](#) (date by which amnesty period must end), for “2007” substitute “2010”.

#### **22 Loans to Consolidated Fund of Northern Ireland: increase of limits**

- (1) Amend section 1 of the Northern Ireland (Loans) Act [1975 \(c. 83\)](#) as follows.
- (2) In subsection (2) (limit on loans to the Consolidated Fund of Northern Ireland), for “£2,000 million” substitute “£3,000 million”.
- (3) In subsection (5) (power to increase the limit by order)—
  - (a) omit “, on not more than one occasion,”,
  - (b) for “the limit in subsection (2)” substitute “the limit for the time being specified in subsection (2)”, and
  - (c) for “£300 million” substitute “£500 million”.

#### **23 Single wholesale electricity market**

- (1) Her Majesty may by Order in Council make provision for giving effect to any agreement or arrangement—
  - (a) which has been entered into between Her Majesty’s Government and the Government of Ireland,
  - (b) which relates to the establishment or operation of a single wholesale electricity market in Northern Ireland and Ireland, and

- (c) a copy of which has been presented to Parliament by the Secretary of State by command of Her Majesty.
- (2) An Order in Council under this section may—
  - (a) amend, repeal or revoke any provision made by or under an Act of Parliament or Northern Ireland legislation (whenever passed or made);
  - (b) confer powers on bodies or persons specified in, or appointed under or by virtue of, the Order, including powers to make statutory rules (within the meaning of the Statutory Rules (Northern Ireland) Order 1979 ([S.I. 1979/1573 \(N.I. 12\)](#)));
  - (c) create offences under the law of Northern Ireland;
  - (d) make provision which applies generally or only in specified cases or circumstances;
  - (e) make different provision for different cases or circumstances;
  - (f) make such consequential, incidental, supplementary or transitional provision as appears to Her Majesty to be necessary or expedient.
- (3) Where an Order in Council under this section creates an offence, it must make provision as to the mode of trial and punishment of offenders; but there is no power for the Order—
  - (a) to impose a maximum term of imprisonment, on summary conviction, of more than three months;
  - (b) to impose a maximum fine, on summary conviction, of more than the statutory maximum; or
  - (c) to impose a maximum term of imprisonment, on conviction on indictment, of more than two years.
- (4) No recommendation is to be made to Her Majesty to make an Order under this section unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

## **24 Financial assistance for energy purposes**

For Article 61 of the Energy (Northern Ireland) Order 2003 ([S.I. 2003/419 \(N.I. 6\)](#)) substitute—

### **“61 Financial assistance for energy purposes**

- (1) The Department may give financial assistance to any person if, in the opinion of the Department—
  - (a) the form and amount of the assistance is reasonable having regard to all the circumstances; and
  - (b) the giving of the assistance is likely to achieve one or more of the purposes set out in paragraph (2).
- (2) Those purposes are—
  - (a) to secure a diverse and viable long-term energy supply;
  - (b) to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland;

- (c) to promote efficiency and economy on the part of persons engaged in the generation, production, transmission, distribution or supply of energy;
  - (d) to promote the efficient use of energy;
  - (e) to promote the development or the bringing into use of—
    - (i) energy from renewable sources, or
    - (ii) technologies for the production of energy from such sources;
  - (f) to promote research and development in relation to other matters connected with energy supply;
  - (g) to promote the generation, production, transmission, distribution or supply of energy from renewable sources;
  - (h) to promote the production, distribution or use of renewable transport fuels;
  - (i) to limit or reduce emissions of greenhouse gases, or other effects on the environment, resulting from the generation, production, transmission, distribution, supply or use of energy;
  - (j) to conduct research, or to raise awareness, about matters referred to in sub-paragraph (i);
  - (k) any other purpose prescribed by regulations made by the Department with the approval of the Department of Finance and Personnel.
- (3) Financial assistance under this Article may be given—
- (a) in respect of particular activities carried on or supported by the recipient; or
  - (b) generally in respect of all or some part of the activities carried on or supported by the recipient.
- (4) Financial assistance under this Article shall be given—
- (a) in such form, and
  - (b) subject to such conditions,
- as the Department considers appropriate.
- (5) Without prejudice to the generality of paragraph (4), financial assistance under this Article may be given in one or more of the following forms—
- (a) by making grants (whether or not repayable) or loans;
  - (b) by giving indemnities;
  - (c) by making investments in bodies corporate;
  - (d) by incurring expenditure for the benefit of a person;
  - (e) by providing services, staff or equipment for the benefit of a person.
- (6) Without prejudice to the generality of paragraph (4), financial assistance under this Article may be given subject to conditions—
- (a) as to repayment;
  - (b) requiring payments to be made to the Department (which need not be limited by reference to the value of the assistance given).
- (7) In this Article—
- “greenhouse gases” has the meaning given by section 82(9) of the Energy Act 2004;

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*Status: This is the original version (as it was originally enacted).*

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“renewable sources” means sources of energy other than fossil fuel, peat or nuclear fuel, and includes waste (and for this purpose, “fossil fuel” and “peat” have the meaning given by Article 52(7));

“renewable transport fuel” means—

- (a) liquid or gaseous fuel that is produced wholly or mainly from biomass; or
- (b) any other description of fuel specified in an order made by the Department;

and for this purpose “biomass” means the biodegradable portion of a specified product, waste or residue.”

## **25 Sustainable development**

- (1) A public authority must, in exercising its functions, act in the way it considers best calculated to contribute to the achievement of sustainable development in Northern Ireland, except to the extent that it considers that any such action is not reasonably practicable in all the circumstances of the case.
- (2) For this purpose—
  - (a) a public authority must have regard to any strategy or guidance relating to sustainable development issued by the Department of the Environment, and
  - (b) a public authority other than a Northern Ireland department must have regard to any guidance relating to sustainable development issued by a Northern Ireland department other than the Department of the Environment.
- (3) In this section “public authority” means—
  - (a) a Northern Ireland department,
  - (b) a district council in Northern Ireland, and
  - (c) any other person designated for the purposes of this section by order made by the Office of the First Minister and deputy First Minister.
- (4) The power to make an order under subsection (3)(c) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 ([S.I. 1979/1573 \(N.I. 12\)](#)).
- (5) Such an order may not be made unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

## **26 Extension to Northern Ireland of provisions of SOCAP 2005**

- (1) Sections 60 to 67, 69 and 70 of the Serious Organised Crime and Police Act 2005 ([c. 15](#)) (investigatory powers of DPP etc.) extend to Northern Ireland.
- (2) Schedule 3 contains amendments of that Act in connection with subsection (1).

## **27 Responsibilities in relation to the health and safety etc. of police**

- (1) In Article 47A of the Health and Safety at Work (Northern Ireland) Order 1978 ([S.I. 1978/1039 \(N.I. 9\)](#)) (application of Part II of that Order to police) after paragraph (2) insert—
  - “(2A) For the purposes of this Part, the relevant officer, as defined by paragraph (2) (a) or (c), shall be treated as a corporation sole.

- (2B) Where, in a case in which the relevant officer, as so defined, is guilty of an offence by virtue of this Article, it is proved—
- (a) that the officer-holder personally consented to the commission of the offence,
  - (b) that he personally connived in its commission, or
  - (c) that the commission of the offence was attributable to personal neglect on his part,
- the office-holder (as well as the corporation sole) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.
- (2C) In paragraph (2B) “the office-holder”, in relation to the relevant officer, means an individual who, at the time of the consent, connivance or neglect—
- (a) held the office or other position mentioned in paragraph (2) as the office or position of that officer; or
  - (b) was for the time being responsible for exercising and performing the powers and duties of that office or position.
- (2D) The provisions mentioned in paragraph (2E) (which impose the same liability for unlawful conduct of constables on persons having their direction or control as would arise if the constables were employees of those persons) do not apply to any liability by virtue of this Part.
- (2E) Those provisions are—
- (a) paragraph 7(1) of Schedule 8 to the Police Act 1997;
  - (b) section 27(8) of the Police (Northern Ireland) Act 1998;
  - (c) section 29(1) of that Act;
  - (d) section 28 of the Serious Organised Crime and Police Act 2005.”
- (2) For paragraph (2) of each of the following Articles of the Employment Rights (Northern Ireland) Order 1996 ([S.I. 1996/1919 \(N.I. 16\)](#))—
- (a) Article 72A (right of police officers not to suffer detriment in relation to health and safety issues), and
  - (b) Article 169A (right of police officers not to be unfairly dismissed in relation to health and safety issues),
- substitute the paragraph set out in subsection (3).
- (3) The paragraph to be substituted is—
- “(2) In this Article “the relevant officer”, in relation to a person holding the office of constable, means the person who under Article 47A of the Health and Safety at Work (Northern Ireland) Order 1978 is to be treated as his employer for the purposes of Part II of that Order.”
- (4) The amendments made by subsections (1) to (3) have effect for the purposes of any proceedings in or before a court or tribunal that are commenced on or after the day on which this Act is passed as if the amendments had come into force on 1st July 1998.
- (5) For the purposes of proceedings commenced against a person in his capacity by virtue of this section as a corporation sole, anything done by or in relation to that person before the passing of this Act shall be deemed to have been done by or in relation to that person in that capacity.

- (6) No person shall be liable by virtue of Article 47A(2B) of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)) in respect of anything occurring before the passing of this Act.

## 28 Duty to fill judicial vacancies

- (1) In section 12 of the Judicature (Northern Ireland) Act 1978 (c. 23) (before its substitution by section 4 of the Justice (Northern Ireland) Act 2002 (c. 26)) (appointment of Lord Chief Justice, Lords Justices of Appeal and judges of High Court), after subsection (2) insert—

“(3) The appointment by Her Majesty of a person to—

- (a) the office of Lord Chief Justice, or
- (b) the office of Lord Justice of Appeal,

shall be made on the recommendation of the Prime Minister.

- (4) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Chief Justice.

- (5) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Justice of Appeal.

- (6) Subsection (5) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.

- (7) The appointment by Her Majesty of a person to the office of a judge of the High Court shall be made on the recommendation of the Lord Chancellor.”

- (2) In section 12 of the Judicature (Northern Ireland) Act 1978 (as substituted by section 4 of the Justice (Northern Ireland) Act 2002) (appointment of Lord Chief Justice and Lords Justices of Appeal), after subsection (2) insert—

“(2A) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Chief Justice.

(2B) The Prime Minister must make a recommendation to fill any vacancy in the office of Lord Justice of Appeal.

(2C) Subsection (2B) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.”

- (3) In section 5 of the Justice (Northern Ireland) Act 2002 (appointment to listed judicial offices), after subsection (1) insert—

“(1A) The Lord Chancellor must make an appointment, or a recommendation for an appointment, to fill any vacancy in a listed judicial office.

(1B) Subsection (1A) does not apply to a vacancy while the Lord Chief Justice agrees that it may remain unfilled.”