



Justice and Security (Northern Ireland) Act 2007

2007 CHAPTER 6

Miscellaneous

44 Northern Ireland department with policing and justice functions

(1) In section 17 of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), the inserted section 21A of the Northern Ireland Act 1998 (c. 47) (Northern Ireland department with policing and justice functions) is amended as follows.

(2) For subsections (1) and (2) substitute—

“(1) An Act of the Assembly that—

- (a) establishes a new Northern Ireland department; and
- (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions,

may (but need not) make provision of the kind mentioned in subsection (3), (4), (5) or (5A).”

(3) After subsection (5) insert—

“(5A) The Act may provide—

- (a) for the department to be in the charge of a Northern Ireland Minister elected by the Assembly; and
- (b) for that Minister to be supported by a deputy Minister elected by the Assembly.”

(4) In subsection (6)—

- (a) for “and (5)” substitute “, (5) and (5A) ”;
- (b) at the end insert “, or by Order in Council under subsection (7C) ”.

(5) After subsection (7) insert—

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- “(7A) If it appears to the Secretary of State that there is no reasonable prospect that the Assembly will pass an Act of the kind described in subsection (1)(a) and (b), he may lay before Parliament the draft of an Order in Council which—
- (a) establishes a new Northern Ireland department;
 - (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions;
 - (c) provides for the department to be in the charge of a Northern Ireland Minister elected by the Assembly and for that Minister to be supported by a deputy Minister elected by the Assembly; and
 - (d) provides for Part 3A of Schedule 4A to apply in relation to the department (with any necessary modifications).
- (7B) The draft of an Order laid before Parliament under subsection (7A) may contain supplementary, incidental, consequential, transitional or saving provision.
- (7C) If the draft of an Order laid before Parliament under subsection (7A) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.
- (7D) No more than one department may be established by virtue of an Order under subsection (7C).”

(6) After section 21A of the Northern Ireland Act 1998 (c. 47) insert—

“21B Section 21A(5A) and (7C): transitional provision

- (1) This section has effect in relation to—
 - (a) the first Act of the Assembly to establish a new Northern Ireland department and to make provision of the kind mentioned in section 21A(5A); or
 - (b) an Order in Council under section 21A(7C) establishing a new Northern Ireland department.
- (2) The Act or the Order may include provision for or in connection with securing that the department is to be treated, for the purposes of section 17, as not having been established until the time at which devolved policing and justice functions are first transferred to, or conferred on, the department (“the time of devolution”).
- (3) The Act or the Order may include provision for or in connection with applying paragraph 11E(3) to (6) of Schedule 4A (with any necessary modifications) to enable elections to be held, before the time of devolution, to select—
 - (a) a member of the Assembly (“the relevant Minister designate”) to be the person who is to hold the relevant Ministerial office as from the time of devolution; and
 - (b) a member of the Assembly (“the deputy Minister designate”) to be the person who is to hold the deputy Ministerial office as from that time.
- (4) Where the Act or the Order includes provision by virtue of subsection (3), it shall secure that (notwithstanding paragraph 11E(1) of Schedule 4A)—

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- (a) if the relevant Minister designate affirms the terms of the pledge of office within a specified period after the time of devolution, he shall become the relevant Minister;
 - (b) if the deputy Minister designate affirms the terms of the pledge of office within that period, he shall (subject to paragraph (c)) become the deputy Minister;
 - (c) if the relevant Minister designate does not affirm the terms of the pledge of office within that period—
 - (i) he shall not become the relevant Minister; and
 - (ii) paragraph 11E(10) and (11) of Schedule 4A shall apply as if the relevant Minister had ceased to hold office at the end of that period otherwise than by virtue of section 16A(2);
 - (d) if the deputy Minister designate does not affirm the terms of the pledge of office within that period—
 - (i) he shall not become the deputy Minister; and
 - (ii) paragraph 11E(10) of Schedule 4A shall apply as if the deputy Minister had ceased to hold office at the end of that period otherwise than by virtue of section 16A(2).
- (5) In this section “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).
- (6) In this section “relevant Minister”, “relevant Ministerial office”, “deputy Minister” and “deputy Ministerial office” have the same meaning as in Part 3A of Schedule 4A.”
- (7) After section 21B of the Northern Ireland Act 1998 (c. 47) insert—

“21C Section 21A(5A) and (7C): power of Assembly to secure retention or abolition of deputy Ministerial office

- (1) This section applies if a new Northern Ireland department is established—
 - (a) by an Act of the Assembly which makes provision of the kind mentioned in section 21A(5A); or
 - (b) by an Order in Council under section 21A(7C).
- (2) Standing orders shall require the committee established by virtue of section 29A to consider the operation of the Ministerial arrangements provided for by Part 3A of Schedule 4A.
- (3) The committee shall, by no later than two years and ten months after the time at which devolved policing and justice functions are first transferred to, or conferred on, the department (“the time of devolution”), make a report on the operation of the Ministerial arrangements provided for by Part 3A of Schedule 4A—
 - (a) to the Assembly; and
 - (b) to the Executive Committee,and the report must include a recommendation as to whether or not the deputy Ministerial office (see subsection (8)) should be retained.
- (4) If before the end of the period of three years beginning with the time of devolution (“the initial period”) the Assembly resolves that the deputy

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Ministerial office should be abolished at a time specified in the resolution (before the end of the initial period), the Secretary of State shall make an order abolishing the deputy Ministerial office (see subsection (9)) at, or as soon as reasonably practicable after, the time specified.

(5) If—

- (a) subsection (4) does not apply; and
- (b) the Assembly does not resolve, before the end of the initial period, that the deputy Ministerial office should be retained for an additional period ending after the initial period,

the Secretary of State shall make an order abolishing the deputy Ministerial office as soon as reasonably practicable after the end of the initial period.

(6) If—

- (a) subsection (4) does not apply;
- (b) the Assembly resolves that the deputy Ministerial office should be retained for an additional period ending after the initial period or for one or more further additional periods; and
- (c) one of those additional periods ends without a further additional period having begun,

the Secretary of State shall make an order abolishing the deputy Ministerial office as soon as reasonably practicable after the end of that period.

(7) A resolution of the Assembly under this section shall not be passed without the support of—

- (a) a majority of the members voting on the motion for the resolution;
- (b) a majority of the designated Nationalists voting; and
- (c) a majority of the designated Unionists voting.

(8) In this section “deputy Ministerial office” has the same meaning as in Part 3A of Schedule 4A.

(9) In this section references to an order abolishing the deputy Ministerial office are to an order amending this Act and any other enactment so far as may be necessary to secure that the Northern Ireland Minister in charge of the department for the time being—

- (a) is not to be supported by a deputy Minister (within the meaning of Part 3A of Schedule 4A); and
- (b) need not belong to the largest or the second largest political designation (within that meaning).

(10) An order under this section—

- (a) shall be made by statutory instrument; and
- (b) may contain supplementary, incidental, consequential, transitional or saving provision.”

(8) Schedule 5 (Northern Ireland department with policing and justice functions) shall have effect.

Changes to legislation:

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