

These notes refer to the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 (c.10) which received Royal Assent on 23 March 2016

Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016

EXPLANATORY NOTES

INTRODUCTION

1. These Explanatory Notes relate to the Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016, which received Royal Assent on 23 March 2016. They have been prepared in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by the Assembly.
2. The notes need to be read in conjunction with the Act. They do not, and are not meant to be, a comprehensive description of the Act. So, where a section or part of a section or Schedule does not seem to require any explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The principal objective of the Act is to enable the formation of an Opposition in the Assembly and to confer rights on the Opposition once it has been formed.
4. The Act also contains measures seeking to enhance the separation of powers by requiring increased co-operation and collective working by the Executive (the Government) while providing an Opposition in the Legislature (the Assembly) with additional financial and logistical support and greater opportunity to examine the work of Government Ministers.

KEY CONCEPTS

5. Members of the Legislative Assembly (MLAs) who are not in a party which has Ministers in Government will often be described as being in opposition. This will continue to be the case but the Act will create a statutory basis for a formal Opposition, with statutory rights and entitlements, if certain conditions are met.
6. The Northern Ireland Act 1998 devolved power from Westminster to the Northern Ireland Assembly after a referendum endorsed the Belfast/Good Friday Agreement. The Act has been updated after subsequent agreements and represents what we mean by “the constitutional settlement”.
7. Standing Orders are the rules of procedure of the Assembly, which give practical effect to the high-level provisions of the Northern Ireland Act 1998.

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8. Separation of powers is a term used to describe a system of checks and balances which safeguards the distinct roles of the Government, the Parliament and the Judiciary and prevents intermingling, influence on or arrogation of those roles by the others.

CONSULTATION

9. The Act's Member conducted a consultation exercise over a seven-week period on the policy objectives and proposed options for the Act.
10. The Member also shared his legislative proposal with the NI Human Rights Commission and the Equality Commission for NI and awaits their views.

OVERVIEW

11. The Act seeks to provide for the formation of an Opposition in the Assembly and to confer certain rights on that Opposition once formed. The Act also seeks to enhance collective decision-making in the Executive, and to increase scrutiny of the Executive by the Legislature.

COMMENTARY ON SECTIONS

Section 1 – Purpose

This section sets out the purpose of the Act. A purpose section is not obligatory, but it is helpful in setting out the aim of the Act. The main purpose is to facilitate the formation of an Opposition.

Section 2: Formation of the Opposition

An Opposition can be formed if one or more qualifying parties form it, qualifying parties being parties which could have a Ministerial office but don't, or parties which do not contain a Minister but whose members comprise 8% of the total number of Members of the Assembly.

Section 3: Timing of formation of the Opposition

The formation of an Opposition follows the formation of the Executive. It can also be formed whenever a qualifying party leaves the Executive or by one or more qualifying parties before 30 June 2016.

Section 4: Dissolution of the Opposition

If the Executive falls then logically there is nothing to oppose, so the Opposition is also dissolved at that time. It can be re-formed if the Executive is subsequently re-formed.

Section 5: Leadership of the Opposition

The Opposition will be led in accordance with this section. Where the Opposition is formed by one qualifying party, then that party will nominate a

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Leader of the Non-Executive Party. Where the Opposition is formed by two or more qualifying parties, then the largest party must nominate a Leader of the Largest Non-Executive Party and the second largest party must nominate a Leader of the Second largest Non-Executive Party. These names may be changed by standing orders.

Section 6: Topical questions from the Leadership of the Opposition

The leadership of the Opposition has the first opportunity to question the First Minister and deputy First Minister during topical questions.

Section 7: Speaking rights in the Assembly

Standing orders will provide that speaking rights in the Assembly are allocated according to party strength.

Section 8: Enhanced speaking rights for the Opposition

The Opposition are to have greater speaking rights than their numbers would otherwise entitle them to. They are to have a minimum of 10 days a year for Opposition business in the Assembly.

Section 9: Opposition right to chair Public Accounts Committee

It is for the Opposition to determine who the chairperson and deputy chairperson of the Public Accounts Committee are.

Section 10: Membership of Business Committee for the Opposition

The Opposition are entitled to be represented on the Business Committee.

Section 11: Financial Assistance for Opposition parties

Political parties within the Assembly are entitled to payments under the Financial Assistance for Political Parties Act (Northern Ireland) 2000. This section provides for additional payments to be made to political parties in the Opposition.

Section 12: Assembly and Executive Transfer of Responsibilities Motion

An Assembly and Executive Transfer of Responsibilities Motion is a motion passed with cross-community consent requesting that the Secretary of State bring forward legislation to allow matters to be dealt with as Reserved rather than Excepted matters.

Section 13: Tabling of Assembly and Executive Transfer of Responsibilities Motion

The Assembly and Executive Review Committee is responsible for ensuring that an Assembly and Executive Transfer of Responsibilities Motion is tabled within 5 days of this section coming into operation.

Section 14: Reports by the AERC

The Assembly and Executive Review Committee must report to the Assembly at least once every 3 months on the progress being made by the Secretary of State in bringing forward legislation to reform the Assembly and the Executive.

Section 15: Topical questions and debate on Executive legislative timetable

During topical questions to Ministers, the first question is to come from the chairperson of the committee established to advise and assist that Minister; and Standing Orders must provide for an annual debate in the Assembly on the Executive's legislative timetable.

Section 16: Interpretation

This section defines some phrases used in the Act.

Section 17: Commencement

The Act will come into operation the day after it receives Royal Assent.

Section 18: Short title

Schedule: Content of Assembly and Executive Transfer of Responsibilities Motion

The Schedule, established by section 12, provides that the motion may request that the Secretary of State legislates to enable the arrangements and time frames for agreeing the terms of the Programme for Government are dealt with as reserved rather than excepted matters.

HANSARD REPORTS

12. The following table sets out the dates of the Hansard reports for each stage of the Act's passage through the Assembly and the date Royal Assent was received.

| <i>STAGE</i> | <i>DATE</i> |
|---|---|
| Introduction to the Assembly | 22 September 2015 |
| Second Stage debate | 12 October 2015 |
| Committee Stage – commenced | 13 October 2015 |
| Committee Stage - evidence from the Act Sponsor | 13/17 October, 17 November, 1/8 December 2015 and 12 January 2016 |
| Committee Stage - evidence from Professor Christopher McCrudden and Dr Alex Schwartz, Queen's University, Belfast | 3 November 2015 |

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| <i>STAGE</i> | <i>DATE</i> |
|---|---------------------|
| Committee Stage – Dr Eoin o’Malley, Dublin City University | 3 November 2015 |
| Committee Stage – Professor Derek Birrell, University of Ulster | 17 November 2015 |
| Committee Stage – Professor John Coakley, Queen’s University, Belfast and Professor Emeritus, University College Dublin | 24 November 2015 |
| Committee's report - Report number NIA 299/11-16 | 19 January 2016 |
| Consideration Stage in the Assembly | 2 & 8 February 2016 |
| Further Consideration Stage in the Assembly | 16 February 2016 |
| Final Stage | 29 February 2016 |
| Royal Assent | 23 March 2016 |