



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART II

#### LEGISLATIVE POWERS

##### *General*

#### **5 Acts of the Northern Ireland Assembly.**

- (1) Subject to sections 6 to 8, the Assembly may make laws, to be known as Acts.
- (2) A Bill shall become an Act when it has been passed by the Assembly and has received Royal Assent.
- (3) A Bill receives Royal Assent at the beginning of the day on which Letters Patent under the Great Seal of Northern Ireland signed with Her Majesty's own hand signifying Her Assent are notified to the Presiding Officer.
- (4) The date of Royal Assent shall be written on the Act by the Presiding Officer, and shall form part of the Act.
- (5) The validity of any proceedings leading to the enactment of an Act of the Assembly shall not be called into question in any legal proceedings.
- (6) This section does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland, but an Act of the Assembly may modify any provision made by or under an Act of Parliament in so far as it is part of the law of Northern Ireland.

#### **6 Legislative competence.**

- (1) A provision of an Act is not law if it is outside the legislative competence of the Assembly.
- (2) A provision is outside that competence if any of the following paragraphs apply—

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- (a) it would form part of the law of a country or territory other than Northern Ireland, or confer or remove functions exercisable otherwise than in or as regards Northern Ireland;
  - (b) it deals with an excepted matter and is not ancillary to other provisions (whether in the Act or previously enacted) dealing with reserved or transferred matters;
  - (c) it is incompatible with any of the Convention rights;
  - [<sup>F1</sup>(ca) it is incompatible with Article 2(1) of the Protocol on Ireland/ Northern Ireland in the EU withdrawal agreement (rights of individuals);]
  - <sup>F2</sup>(d) .....
  - (e) it discriminates against any person or class of person on the ground of religious belief or political opinion;
  - (f) it modifies an enactment in breach of section 7.
- (3) For the purposes of this Act, a provision is ancillary to other provisions if it is a provision—
- (a) which provides for the enforcement of those other provisions or is otherwise necessary or expedient for making those other provisions effective; or
  - (b) which is otherwise incidental to, or consequential on, those provisions;
- and references in this Act to provisions previously enacted are references to provisions contained in, or in any instrument made under, other Northern Ireland legislation or an Act of Parliament.
- (4) Her Majesty may by Order in Council specify functions which are to be treated, for such purposes of this Act as may be specified, as being, or as not being, functions which are exercisable in or as regards Northern Ireland.
- (5) No recommendation shall be made to Her Majesty to make an Order in Council under subsection (4) unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

#### Textual Amendments

- F1** S. 6(2)(ca) inserted (31.12.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(7), **Sch. 3 para. 2** (with s. 38(3)); S.I. 2020/1622, reg. 5(i)
- F2** S. 6(2)(d) omitted (31.3.2022) by virtue of [The European Union \(Withdrawal\) Act 2018 \(Repeal of EU Restrictions in Devolution Legislation, etc.\) Regulations 2022 \(S.I. 2022/357\)](#), regs. 1(1), **3(2)**

#### Modifications etc. (not altering text)

- C1** S. 6 applied (31.12.2020) by Regulation (EC) No. 1907/2006, Art. 4A(7) (as inserted by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 1 para. 5**; 2020 c. 1, Sch. 5 para. 1(1))
- C2** S. 6 applied (31.12.2020) by Regulation (EC) No. 1907/2006, Art. 129(9) (as inserted by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 1 para. 89(1)**; 2020 c. 1, Sch. 5 para. 1(1))
- C3** S. 6 applied (31.12.2020) by Regulation (EC) No. 1907/2006, Annex 17 para. 2 (as inserted by [The REACH etc. \(Amendment etc.\) \(EU Exit\) Regulations 2019 \(S.I. 2019/758\)](#), reg. 1(1), **Sch. 3 para. 13**; 2020 c. 1, Sch. 5 para. 1(1))
- C4** S. 6(2)(d) restricted (1.3.2019) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), Sch. 8 para. 41(5)(9) (with s. 19, Sch. 8 para. 37); S.I. 2019/399, reg. 2

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- C5** S. 6(2)(d) excluded (14.11.2020) by Immigration and Social Security Co-ordination (EU Withdrawal) Act 2020 (c. 20), s. 9(4), **Sch. 2 para. 4(a)(b)**; S.I. 2020/1279, reg. 2(c)

**F3 6A Restriction relating to retained EU law**

**Textual Amendments**

- F3** S. 6A omitted (31.3.2022) by virtue of The European Union (Withdrawal) Act 2018 (Repeal of EU Restrictions in Devolution Legislation, etc.) Regulations 2022 (S.I. 2022/357), regs. 1(1), **3(3)**

**7 Entrenched enactments.**

(1) Subject to <sup>F4</sup>subsections (2A) and (2B)], the following enactments shall not be modified by an Act of the Assembly or subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department—

- <sup>F5</sup>(a) .....
- (b) the <sup>M1</sup>Human Rights Act 1998; <sup>F6</sup>...
- (c) section 43(1) to (6) and (8), section 67, sections 84 to <sup>F7</sup>86B], section 95(3) and (4) and section 98 <sup>F8</sup> <sup>F9</sup>....
- <sup>F9</sup>(d) section 1 and section 84 of the Justice (Northern Ireland) Act 2002.; <sup>F10</sup> ...
- <sup>F11</sup>(e) the European Union (Withdrawal) Act 2018]; <sup>F12</sup> and
- (f) the United Kingdom Internal Market Act 2020.]

<sup>F13</sup>(2) .....

<sup>F14</sup>(2A) Subsection (1) does not prevent an Act of the Assembly or subordinate legislation modifying—

- <sup>F15</sup>(ba) [ any excluded provision of the European Union (Withdrawal) Act 2018,] or
- (c) any regulations made under that Act.]

<sup>F16</sup>(2B) For the purposes of subsection (2A)(ba), the following are excluded provisions of the European Union (Withdrawal) Act 2018—

- (a) section 1B(3) and (4),
- (b) sections 8A to 8C,
- (c) section 10(3) and (4),
- (d) sections 13A and 13B,
- (e) sections 15A to 15C,
- (f) Parts 1A to 1C of Schedule 2,
- (g) paragraphs 1(11) and (12), 2(12) and (13) and 8A to 8G of Schedule 7, and
- (h) paragraph 21 of Schedule 8.]

(3) In this Act “Minister”, unless the context otherwise requires, means the First Minister, the deputy First Minister or a Northern Ireland Minister.

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### Textual Amendments

- F4** Words in s. 7(1) substituted (23.1.2020) by virtue of [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(vi), [Sch. 5 para. 24\(2\)](#) (with s. 38(3))
- F5** S. 7(1)(a) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 51\(2\)\(b\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F6** Word in s. 7(1) repealed (12.4.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\)](#), s. 87(1), [Sch. 13](#); S.R. 2010/113, art. 2, [Sch. para. 21\(r\)](#)
- F7** Word in s. 7(1)(c) substituted (11.3.2009) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), ss. 30(1), 31, [Sch. 4 para. 10](#); S.I. 2009/448, [art. 2](#)
- F8** Word in s. 7(1)(c) omitted (26.6.2018) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(1)(b), [Sch. 3 para. 51\(2\)\(c\)](#) (with s. 19, [Sch. 8 para. 37](#))
- F9** S. 7(1)(d) and word inserted (16.4.2007) by [2002 c. 26](#), ss. 84(1), 87(1); S.R. 2007/237, [art. 2](#), [Sch.](#)
- F10** Word in s. 7(1)(d) omitted (31.12.2020) by virtue of [United Kingdom Internal Market Act 2020 \(c. 27\)](#), [ss. 54\(3\)\(a\)](#), 59(3) (with s. 55(2)); S.I. 2020/1621, reg. 2(k)
- F11** S. 7(1)(e) and word inserted (26.6.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(1)(b), [Sch. 3 para. 51\(2\)\(d\)](#) (with s. 19, [Sch. 8 para. 37](#))
- F12** S. 7(1)(f) and word inserted (31.12.2020) by [United Kingdom Internal Market Act 2020 \(c. 27\)](#), [ss. 54\(3\)\(b\)](#), 59(3) (with s. 55(2)); S.I. 2020/1621, reg. 2(k)
- F13** S. 7(2) omitted (31.12.2020) by virtue of [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(4), [Sch. 3 para. 51\(3\)](#) (with s. 19, [Sch. 8 para. 37](#)); S.I. 2020/1622, reg. 3(l) (with regs. 10, 22)
- F14** S. 7(2A) inserted (26.6.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(1)(b), [Sch. 3 para. 51\(4\)](#) (with s. 19, [Sch. 8 para. 37](#))
- F15** S. 7(2A)(ba) substituted for s. 7(2A)(a)(b) (23.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(vi), [Sch. 5 para. 24\(3\)](#) (with s. 38(3))
- F16** S. 7(2B) inserted (23.1.2020) by [European Union \(Withdrawal Agreement\) Act 2020 \(c. 1\)](#), s. 42(6)(e)(vi), [Sch. 5 para. 24\(4\)](#) (with s. 38(3))

### Marginal Citations

- M1** 1988 c.42.

## [<sup>F17</sup>7A Cross-community support required for Bill altering size of Assembly

(1) The Assembly shall not pass a relevant Bill without cross-community support.

(2) In this section—

“pass”, in relation to a Bill, means pass at the stage in the Assembly's proceedings at which the Bill falls finally to be passed or rejected;

“relevant Bill” means a Bill containing a provision which deals with a matter falling within a description specified in paragraph 7A of Schedule 3 (size of Assembly).]

### Textual Amendments

- F17** S. 7A inserted (13.5.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\)](#), [ss. 6\(3\)](#), 28(4)

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## **8 Consent of Secretary of State required in certain cases.**

The consent of the Secretary of State shall be required in relation to a Bill which contains—

- (a) a provision which deals with an excepted matter and is ancillary to other provisions (whether in the Bill or previously enacted) dealing with reserved or transferred matters; or
- (b) a provision which deals with a reserved matter.

**Changes to legislation:**

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