

Status: Point in time view as at 11/03/2009.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part 3. (See end of Document for details)

SCHEDULES

SCHEDULE 4A

DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

[^{F1}PART 3

DEPARTMENT WITH ROTATION BETWEEN MINISTER AND JUNIOR MINISTER

Textual Amendments

- F1** Sch. 4A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 17, 31, **Sch. 2** (as amended (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 9, 27, Sch. 5 paras. 8-14, Sch. 6 (with s. 1(3)); S.I. 2007/1397, art. 2 (which amending Act was itself amended (27.3.2007) by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) and as amended (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44, 53, Sch. 5 paras. 2, 3; S.I. 2009/446, art. 3); S.I. 2009/448, **art. 2**

Introduction

- 8 (1) This Part of this Schedule has effect in relation to a Northern Ireland department—
- (a) the functions of which consist wholly or mainly of devolved policing and justice functions; and
 - (b) in relation to which an Act of the Assembly provides, by virtue of section 21A(5)—
 - (i) for it to be in the charge of a Northern Ireland Minister (the “relevant Minister”) who is supported by a junior Minister (the “relevant junior Minister”); and
 - (ii) for the persons holding those offices to rotate at intervals determined by or under the Act.²⁹
- (2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

- 8A Section 16A(3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted—
- (aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 3 of Schedule 4A) and the relevant junior Ministerial office (within that meaning) shall be filled by applying paragraph 11(3) to (6) of that Schedule; and

Status: Point in time view as at 11/03/2009.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part 3. (See end of Document for details)

- (b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

Section 18 not to apply to relevant Minister

- 9 (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—
- (a) the relevant Minister; or
 - (b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),
- and paragraph 11 shall apply instead.
- (2) But the references to Ministerial offices in—
- (a) subsection (1)(c) and (d) of section 18; and
 - (b) subsection (5) of that section (in the definition of M),
- shall be taken to include the relevant Ministerial office.
- (3) And the junior Ministerial office held by the relevant junior Minister (the “relevant junior Ministerial office”) shall be taken to be a Ministerial office for the purposes of subsection (5) of that section.

Certain provisions of section 19 not to apply to relevant junior Minister

- 10 (1) The provisions of section 19 (junior Ministers) specified in sub-paragraph (2) shall not apply in relation to—
- (a) the relevant junior Minister; or
 - (b) the relevant junior Ministerial office,
- and paragraph 11 shall apply instead.
- (2) Those provisions are—
- (a) so much of subsection (1)(a) as relates to the procedures for the appointment of persons as junior Ministers;
 - (b) subsection (2) (so that, in particular, the relevant junior Ministerial office shall not count for the purposes of any formulae or other rules mentioned in that subsection);
 - (c) subsection (3); and
 - (d) subsection (5).

Provisions relating to relevant Minister and relevant junior Minister

- 11 (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—
- (a) the relevant Minister and the relevant junior Minister shall (if holding office at the time) cease to hold office; and
 - (b) the relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (2) The relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6)—
- (a) before section 18(2) to (6) is applied in relation to the other Ministerial offices; and

Status: Point in time view as at 11/03/2009.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part 3. (See end of Document for details)

- (b) before the procedures specified in any determination under section 19 are applied in relation to the other junior Ministerial offices.
- (3) The First Minister and the deputy First Minister acting jointly shall nominate—
 - (a) a member of the Assembly to hold the relevant Ministerial office; and
 - (b) a member of the Assembly to hold the relevant junior Ministerial office.
- (3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.
- (4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with 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.
- (5) If—
 - (a) the nomination does not take effect within a period specified in standing orders; or
 - (b) the nominated persons do not take up the offices for which they have been nominated within that period,a further nomination of two members of the Assembly shall be made under sub-paragraph (3).
- (6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial office and the relevant junior Ministerial office are filled.
- (7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold—
 - (a) the relevant Ministerial office; or
 - (b) the relevant junior Ministerial office.
- (8) The relevant Minister and the relevant junior Minister—
 - (a) shall not take up office until each of them has affirmed the terms of the pledge of office; and
 - (b) must take up office at the same time as each other.
- (9) The relevant Minister or the relevant junior Minister shall cease to hold office if—
 - (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
 - (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or
 - (c) he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or
 - (d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.
- (10) Sub-paragraph (11) applies if the relevant Minister or the relevant junior Minister ceases to hold office at any time, otherwise than—
 - (a) by virtue of sub-paragraph (1); or

Status: Point in time view as at 11/03/2009.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part 3. (See end of Document for details)

- (b) by virtue of the rotation of the persons holding those offices in accordance with provision referred to in paragraph 8(1)(b)(ii).
- (11) Where this sub-paragraph applies—
- (a) the other shall also cease to hold office at that time; and
 - (b) the relevant Ministerial office and the relevant junior Ministerial office shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.
- (11A) If, as a result of the relevant Minister (“the former Minister”) and the relevant junior Minister (“the former junior Minister”) ceasing to hold office and the relevant Ministerial office and the relevant junior Ministerial office being filled by virtue of sub-paragraph (11)(b),—
- (a) the total number of Ministerial offices or junior Ministerial offices held by members of a political party increases; or
 - (b) the total number of Ministerial offices or junior Ministerial offices held by members of a political party decreases,
- all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (11B) But sub-paragraph (11A) shall not apply if—
- (a) the former Minister or the former junior Minister ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9) (d); and
 - (b) before the relevant Ministerial office and the relevant junior Ministerial office were filled, either of the conditions in sub-paragraph (11C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned.
- (11C) The conditions are that—
- (a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for the appropriate office, but consent to his nomination was not given in accordance with sub-paragraph (3A); or
 - (b) the member was nominated under sub-paragraph (3) for the appropriate office and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.
- (11D) In sub-paragraph (11C) “the appropriate office” means—
- (a) in relation to a person who was a member of the political party of the nominating officer who dismissed the former Minister, the relevant Ministerial office;
 - (b) in relation to a person who was a member of the political party of the nominating officer who dismissed the former junior Minister, the relevant junior Ministerial office.
- (12) Where—
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and
 - (b) the party's period of exclusion under that provision has not come to an end,
- no member of that party may be nominated under sub-paragraph (3).

Status: Point in time view as at 11/03/2009.

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- (13) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
 - (b) the party's period of exclusion under that provision has not come to an end, no member of that party may be nominated under sub-paragraph (3).
- (14) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.
- (15) In this paragraph “nominating officer” has the same meaning as in section 18.]

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