These notes refer to the Northern Ireland Act 2009 (c.3) which received Royal Assent on 12 March 2009

NORTHERN IRELAND ACT 2009

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. On 18 November 2008, the Northern Ireland First and deputy First Ministers announced that they had agreed a process to complete the devolution of policing and justice to the Northern Ireland Assembly. As part of that process, they proposed initial arrangements for the Ministerial oversight of a justice department. They also proposed that, on devolution, responsibilities relating to the appointment of judicial office holders should transfer to the Northern Ireland Judicial Appointments Commission. They agreed that all of these arrangements should be subject to review and that the Assembly should agree permanent arrangements by 1 May 2012.

4. This Act paves the way for that process to take effect by making a number of changes to the Northern Ireland Act 1998 ("the 1998 Act"), the Judicature (Northern Ireland) Act 1978 and the Justice (Northern Ireland) Act 2002. However, it does not give effect to devolution; before the devolution of policing and justice, further legislation will be required both in the Northern Ireland Assembly and at Westminster (in the form of subordinate legislation) to give effect to the transfer of policing and justice powers.

5. This Act provides for a new ministerial model for a justice department to be added to the menu of options already provided for by the 1998 Act. It allows the department to be headed by a single minister, nominated by any member of the Northern Ireland Assembly and elected by a cross-community vote, and allows this minister to be additional to the normal allocation of seats on the Executive Committee.

6. The Act also provides for certain functions relating to the appointment of judicial office holders to be exercised by the Northern Ireland Judicial Appointments Commission instead of by the First and deputy First Ministers as had previously been envisaged under the Justice (Northern Ireland) Act 2002. Removal of listed judicial office holders will become primarily the responsibility of the Lord Chief Justice, again rather than the First and deputy First Ministers.

7. As described above, the terms of the statement by the First and deputy First Ministers were that these initial arrangements – relating to the ministerial oversight of the department and to judicial appointments and removals – should be time limited and permanent arrangements put in place by 1 May 2012. The Act gives effect to this deadline by providing that the initial justice department will be dissolved on 1 May 2012 unless the Northern Ireland Assembly has previously agreed the future arrangements for ministerial oversight; by placing a duty on the Assembly to review the operation of the amendments made to the law governing judicial appointments and removals; and by placing a bar on the making of further appointments of new members to the Northern Ireland Judicial Appointments Commission from 1 May 2012, unless the Assembly has reached agreement on what the future arrangements for judicial appointments and removals should be.

8. The Act also makes two technical amendments. The first amends the Juries (Northern Ireland) Order 1996 to allow certain responsibilities relating to the disclosure of juror information to be exercised by both the Advocate General for Northern Ireland (in

respect of national security and terrorism) and the Attorney General for Northern Ireland (in respect of all other matters). The second establishes the Director of Public Prosecutions for Northern Ireland (DPPNI) as a corporation sole. This will facilitate the holding of property, rights and liabilities by the DPPNI, reflecting the intention that, following devolution, the Public Prosecution Service for Northern Ireland should be a non-ministerial department, independent of a "parent" department within the Northern Ireland departmental system.

9. The Act also amends section 86 of the 1998 Act to allow the transfer of any function between UK and Northern Ireland authorities and the creation and removal of functions, in consequence of an Order under section 4 of that Act. This will, for example, allow executive functions relating to certain policing and justice matters to be transferred to the devolved administration in Northern Ireland by Order even where the legislative competence for that particular subject area remains reserved.