



# Northern Ireland (Executive Formation etc) Act 2019

## 2019 CHAPTER 22

### *Duties to make regulations*

#### **8 Same sex marriage and opposite sex civil partnership**

- (1) The Secretary of State must, by regulations, make provision so that—
  - (a) two persons who are of the same sex are eligible to marry in Northern Ireland, and
  - (b) two persons who are not of the same sex are eligible to form a civil partnership in Northern Ireland,provided that, apart from the question of sex, they would be eligible to marry or form a civil partnership (as the case may be).
- (2) Regulations under subsection (1) must be made so as to come into force on or before 13 January 2020 (but this does not in any way limit the re-exercise of the power).
- (3) The Secretary of State may, by regulations, make any other provision that appears to the Secretary of State to be appropriate in view of—
  - (a) the extension of eligibility to marry in Northern Ireland to persons of the same sex, and
  - (b) the extension of eligibility to form civil partnerships in Northern Ireland to persons who are not of the same sex.
- (4) Regulations under subsection (3) may, in particular, make provision about—
  - (a) parenthood and parental responsibility of parties to a marriage or civil partnership;
  - (b) the application by a party to a marriage or civil partnership for a gender recognition certificate under the Gender Recognition Act 2004, or the issuing of such a certificate, and the consequences of that application or issuing for the marriage or civil partnership;
  - (c) the financial consequences of marriage or civil partnership (for example, in relation to pensions or social security);

- (d) the treatment under the law of Northern Ireland of marriages, civil partnerships or relationships similar to civil partnerships formed outside of Northern Ireland.
- (5) The Secretary of State may, by regulations, make provision for and in connection with a right to—
- (a) convert a marriage into a civil partnership;
  - (b) convert a civil partnership into a marriage.

Such regulations may, in particular, make provision equivalent or similar to that contained in or authorised by section 9 of the Marriage (Same Sex Couples) Act 2013.

- (6) The Secretary of State may, by regulations, make any provision that the Secretary of State considers appropriate in order to protect the ability to act in accordance with religious or other belief or opinion in relation to marriage or civil partnership (including the conversion of marriage into civil partnership and vice versa).
- (7) Regulations under this section—
- (a) may make provision for fees to be payable;
  - (b) may make provision conferring a discretion on a person;
  - (c) may make provision enabling a person to make regulations (and such regulations may make provision for fees to be payable);
  - (d) may include provision amending, repealing or revoking any provision made by an Act of Parliament or Northern Ireland legislation;
  - (e) may, in so far as made in reliance on section 11(2), include provision amending or repealing provision made by an Act or Measure of the National Assembly for Wales or an Act of the Scottish Parliament.
- (8) In this section—
- (a) references to marriage in Northern Ireland (however expressed) include references to marriage outside of the United Kingdom by virtue of eligibility to marry in Northern Ireland (in accordance with Part 1 or Part 3 of Schedule 6 to the Marriage (Same Sex Couples) Act 2013);
  - (b) references to forming a civil partnership in Northern Ireland include references to registering as civil partners outside the United Kingdom by virtue of eligibility to do so in Northern Ireland (in accordance with section 210(2)(b) or 211(2)(b) of the Civil Partnership Act 2004).

## **9 Abortion etc: implementation of CEDAW recommendations**

- (1) The Secretary of State must ensure that the recommendations in paragraphs 85 and 86 of the CEDAW report are implemented in respect of Northern Ireland.
- (2) Sections 58 and 59 of the Offences Against the Person Act 1861 (attempts to procure abortion) are repealed under the law of Northern Ireland.
- (3) No investigation may be carried out, and no criminal proceedings may be brought or continued, in respect of an offence under those sections under the law of Northern Ireland (whenever committed).
- (4) The Secretary of State must by regulations make whatever other changes to the law of Northern Ireland appear to the Secretary of State to be necessary or appropriate for the purpose of complying with subsection (1).

- (5) Regulations under subsection (4) must, in particular, make provision for the purposes of regulating abortions in Northern Ireland, including provision as to the circumstances in which an abortion may take place.
- (6) Regulations under subsection (4) must be made so as to come into force by 31 March 2020 (but this does not in any way limit the re-exercise of the power).
- (7) The Secretary of State must carry out the duties imposed by this section expeditiously, recognising the importance of doing so for protecting the human rights of women in Northern Ireland.
- (8) The Secretary of State may by regulations make any provision that appears to the Secretary of State to be appropriate in view of subsection (2) or (3).
- (9) Regulations under this section may make any provision that could be made by an Act of the Northern Ireland Assembly.
- (10) In this section “the CEDAW report” means the Report of the Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW/C/OP.8/GBR/1) published on 6 March 2018.

## **10 Victims’ payments**

- (1) The Secretary of State must by regulations establish a scheme under the law of Northern Ireland which provides for one or more payments to be made to, or in respect of, a person who has sustained an injury as a result of a Troubles-related incident.
- (2) The first regulations under subsection (1) must be made before the end of January 2020 and come into force before the end of May 2020.
- (3) Regulations under subsection (1) must make provision as to the eligibility criteria for payments under the scheme which may, in particular, relate to—
  - (a) the nature or extent of a person’s injury;
  - (b) how, when or where the injury was sustained;
  - (c) residence or nationality;
  - (d) whether or not a person has been convicted of an offence.
- (4) Regulations under subsection (1) may make provision for the reimbursement of costs incurred by a person in connection with an application under the scheme (whether or not the application is successful).
- (5) Regulations under subsection (1) may, in particular, make provision—
  - (a) for determining the amount of any payment;
  - (b) for payments to be made in respect of past periods (including periods before this Act was passed);
  - (c) for payments to be reduced or repaid (in whole or in part) in specified circumstances;
  - (d) about the treatment under other legislation (for example social security legislation) of payments under the scheme.
- (6) Regulations under subsection (1) must make provision of the kind mentioned in subsection (5)(b) so as to ensure that where—

- (a) a person is eligible under the scheme as the result of an injury sustained by that person before the scheme comes into force, and
- (b) the person makes an application within a period specified in the regulations (which must not be less than the period of two years beginning with the day on which the scheme comes into force),

the person is entitled to a payment to reflect the amount that the person would have received had the scheme been in force since the making of the Stormont House Agreement.

- (7) Regulations under subsection (1) may, in particular, make provision about—
- (a) the administration of the scheme (including provision establishing a body or conferring functions on an existing body);
  - (b) the funding of the scheme by money from the Consolidated Fund of Northern Ireland (whether by virtue of grant funding from a Northern Ireland department, the appropriation of money by an Act of the Northern Ireland Assembly or otherwise);
  - (c) the sharing of information between public authorities for the purposes of the scheme;
  - (d) evidential matters;
  - (e) the procedure for the making and deciding of applications (including provision imposing time limits);
  - (f) appeals and reviews;
  - (g) information, advice or assistance in relation to the scheme or payments under it.
- (8) Regulations under subsection (1) may make provision conferring a discretion on a person.
- (9) Regulations under subsection (1)—
- (a) may include provision amending, repealing or revoking any provision made by an Act of Parliament or Northern Ireland legislation, and
  - (b) in so far as made in reliance on section 11(2), may also include provision amending or repealing provision made by an Act or Measure of the National Assembly for Wales or an Act of the Scottish Parliament.
- (10) In making the first regulations under this section the Secretary of State must have regard to any advice given by the Commission for Victims and Survivors for Northern Ireland.
- (11) In this section—
- “injury” means any illness or injury (whether physical or mental);
  - “the Stormont House Agreement” means the agreement made between parties represented in the Northern Ireland Assembly, the Government of the United Kingdom and the Government of Ireland on 23 December 2014;
  - “Troubles-related incident” means an incident involving an act of violence or force carried out in Ireland, the United Kingdom or anywhere in Europe for a reason related to the constitutional status of Northern Ireland or to political or sectarian hostility between people there.

## **11 Regulations: supplementary**

- (1) A power to make regulations under section 8, 9 or 10 may be used to make different provision for different purposes.
- (2) Regulations under section 8, 9 or 10 may make incidental, supplementary, consequential, transitional or saving provision.

## **12 Regulations: procedure**

- (1) Regulations under section 8, 9 or 10 are to be made by statutory instrument.
- (2) A statutory instrument containing regulations under section 8 or 10 is subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument containing regulations under section 9 must be laid before Parliament after being made.
- (4) Regulations contained in an instrument laid under subsection (3) cease to have effect at the end of the period of 28 days beginning with the day on which the instrument is made unless, during that period, the instrument is approved by a resolution of each House of Parliament.
- (5) In calculating the period of 28 days mentioned in subsection (4), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (6) If regulations cease to have effect as a result subsection (4), that does not affect—
  - (a) anything previously done under them, or
  - (b) the making of new regulations.