



Northern Ireland Constitution Act 1973

1973 CHAPTER 36

PART II

LEGISLATIVE POWERS AND EXECUTIVE AUTHORITIES

Legislative powers

4 Measures of Northern Ireland Assembly

- (1) Laws may be made for Northern Ireland by Measures of the Assembly (in this Act referred to as " Measures ").
- (2) A Measure shall be enacted by being passed by the Assembly and approved by Her Majesty in Council.
- (3) Subject to section 17 below, a Measure shall have the same force and effect as an Act of the Parliament of the United Kingdom.
- (4) This section does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland but, subject to the said section 17, a Measure may amend or repeal any provision made by or under any Act of Parliament in so far as it is part of the law of Northern Ireland.
- (5) It is hereby declared for the avoidance of doubt that a Measure is not invalid by reason of any failure to comply with the provisions of section 5, 6, 14 or 18(2), (5) or (6) below ; and no act or omission under any of those provisions shall be called in question in any legal proceedings.

5 Secretary of State's consent for proposed Measures dealing with excepted or reserved matters

- (1) The consent of the Secretary of State shall be required in accordance with this section in relation to a proposed Measure which contains any provision dealing with an excepted matter or reserved matter; and the Secretary of State shall not give his consent in relation to a proposed Measure which contains any provision dealing with an

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excepted matter unless he considers that the provision is ancillary to other provisions (whether in that Measure or previously enacted) dealing with reserved matters or transferred matters.

(2) Every proposed Measure introduced in the Assembly shall be considered by the Clerk to the Assembly on introduction and if—

- (a) he considers that it contains any provision dealing with an excepted matter or reserved matter ; and
- (b) it has not been endorsed with a statement that the Secretary of State has consented to the Assembly considering the proposed Measure,

then, subject to subsection (4) below, the Clerk shall refer the proposed Measure to the Secretary of State and the Assembly shall not proceed with the Measure unless the Secretary of State's consent to the consideration of the Measure by the Assembly is signified or the Assembly is informed that in his opinion the Measure does not contain any such provision as aforesaid.

(3) Before the Assembly enters on the stage in its proceedings at which a proposed Measure falls finally to be passed or rejected—

- (a) the Clerk to the Assembly shall again consider the proposed Measure; and
- (b) if he considers that it contains any provision dealing with an excepted matter or reserved matter he shall, subject to subsection (4) below, refer it to the Secretary of State,

and the Assembly shall not enter on that stage unless the Secretary of State's consent to the Measure is signified or the Assembly is informed that in his opinion the Measure does not contain any such provision as aforesaid.

(4) Neither subsection (2) nor subsection (3) above shall require the Clerk to the Assembly to refer any proposed Measure to the Secretary of State, or preclude the Assembly from proceeding with a proposed Measure, by reason only that it contains a provision which, in the opinion of the Clerk, is ancillary to other provisions (whether in that Measure or previously enacted) dealing with transferred matters only.

(5) Every proposed Measure passed by the Assembly shall be transmitted to the Secretary of State for submission to Her Majesty in Council but if—

- (a) he considers that it contains any provision dealing with an excepted matter or reserved matter; and
- (b) it has not been referred to him under subsection (3) above (whether by virtue of subsection (4) above or otherwise),

he shall not submit the Measure to Her Majesty in Council unless he consents to the Measure.

(6) If the Secretary of State withholds his consent to a proposed Measure passed by the Assembly he shall refer it back to the Assembly for further consideration; and, if it is modified by the Assembly and again transmitted to him, subsection (5) above shall apply to it as if it were a new proposed Measure transmitted to him after being passed by the Assembly.

(7) For the purposes of this section a provision is ancillary to other provisions if it is a provision which is necessary or expedient for making those other provisions effective or which provides for the enforcement of those other provisions or which is otherwise incidental to, or consequential on, those provisions ; and references in this section to provisions previously enacted are references to provisions contained in, or in any

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instrument made under, another Measure, an Act of the Parliament of the United Kingdom or an Act of the Parliament of Northern Ireland.

6 Parliamentary control of Measures dealing with excepted or reserved matters

- (1) Subject to the provisions of this section, a proposed Measure to which the Secretary of State has consented under section 5(3) or (5) above shall not be submitted by him to Her Majesty in Council unless he has first laid it before Parliament and either—
 - (a) the period of twenty days beginning with the date on which it is laid has expired without notice having been given in either House of a motion praying that the proposed Measure shall not be submitted to Her Majesty in Council for approval; or
 - (b) if notice of such a motion is given within that period the motion has been rejected or withdrawn.
- (2) Subsection (1) above shall not apply to a proposed Measure if the Secretary of State considers that it contains no provision dealing with an excepted matter or reserved matter except a provision which is ancillary (within the meaning of section 5 above) to other provisions dealing with transferred matters only.
- (3) Subsection (1) above shall not apply to a proposed Measure if the Secretary of State considers that by reason of urgency it should be submitted to Her Majesty in Council without first being laid before Parliament.
- (4) Any Measure submitted by virtue of subsection (3) above shall, if approved by Her Majesty in Council, be laid before Parliament by the Secretary of State after approval, and if—
 - (a) within the period of twenty days beginning with the date on which it is laid notice is given in either House of a motion praying that the Measure shall cease to have effect; and
 - (b) that motion is carried,Her Majesty may by Order in Council repeal that Measure with effect from such date as may be specified in the Order.
- (5) An Order in Council under subsection (4) above may make such consequential or transitional provision in connection with the repeal as appears to Her Majesty to be necessary or expedient.
- (6) Any notice of motion for the purposes of subsection (1) or (4) above must be signed by not less than twenty members of the House in which it is given ; and any period mentioned in those subsections shall be computed, in relation to each House, by reference only to days on which that House sits.