



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART III

#### EXECUTIVE AUTHORITIES

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

- C1** Pts. II-IV applied in part (1.1.2007) by [The Equality Act \(Sexual Orientation\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/439\)](#), [reg. 53\(6\)](#)

##### *Authorities*

<sup>F1</sup>**16 First Minister and deputy First Minister.**

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##### Textual Amendments

- F1** Ss. 16A-16C substituted (8.5.2007) for s. 16 by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), [ss. 8\(1\), 27\(4\)\(5\)](#) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)): [S.I. 2007/1397](#), [art. 2](#)

<sup>F2</sup>**16A Appointment of First Minister, deputy First Minister and Northern Ireland Ministers following Assembly election**

- (1) This section applies where an Assembly is elected under section 31 or 32.
- (2) All Northern Ireland Ministers shall cease to hold office.
- (3) Within a period of [<sup>F3</sup>14 days] beginning with the first meeting of the Assembly—
  - (a) the offices of First Minister and deputy First Minister shall be filled by applying subsections (4) to (7); and

*Status: Point in time view as at 04/07/2018.*

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

- (b) the Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).
- (4) The nominating officer of the largest political party of the largest political designation shall nominate a member of the Assembly to be the First Minister.
- (5) The nominating officer of the largest political party of the second largest political designation shall nominate a member of the Assembly to be the deputy First Minister.
- (6) If the persons nominated do not take up office within a period specified in standing orders, further nominations shall be made under subsections (4) and (5).
- (7) Subsections (4) to (6) shall be applied as many times as may be necessary to secure that the offices of First Minister and deputy First Minister are filled.
- (8) But no person may take up office as First Minister, deputy First Minister or Northern Ireland Minister by virtue of this section after the end of the period mentioned in subsection (3) (see further section 32(3)).
- (9) The persons nominated under subsections (4) and (5) shall not take up office until each of them has affirmed the terms of the pledge of office.
- (10) Subject to the provisions of this Part, the First Minister and the deputy First Minister shall hold office until immediately before those offices are next filled by virtue of this section.
- (11) The holder of the office of First Minister or deputy First Minister may by notice in writing to the Presiding Officer designate a Northern Ireland Minister to exercise the functions of that office—
- (a) during any absence or incapacity of the holder; or
  - (b) during any vacancy in that office arising otherwise than under section 16B(2), but a person shall not have power to act by virtue of paragraph (a) for a continuous period exceeding six weeks.
- (12) This section shall be construed in accordance with, and is subject to, section 16C.

#### Textual Amendments

- F2** Ss. 16A-16C substituted (8.5.2007) for s. 16 by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 8(1)**, 27(4)(5) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)); [S.I. 2007/1397](#), **art. 2**
- F3** Words in s. 16A(3) substituted (4.5.2016) by [Northern Ireland \(Stormont Agreement and Implementation Plan\) Act 2016 \(c. 13\)](#), **ss. 6(1)**, 11(2)

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

- C2** S. 16A excluded (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 2(2)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)), 27(1), {Sch. 2 para. 2(2)}; [S.I. 2007/1397](#), **art. 2**
- C3** S. 16A(3) modified (retrospective to 2.3.2017) by [Northern Ireland \(Executive Formation and Exercise of Functions\) Act 2018 \(c. 28\)](#), **s. 1(1)(2)**
- C4** S. 16A(3) modified (N.I.) (27.4.2017) by [Northern Ireland \(Minsiterial Appointments and Regional Rates\) Act 2017 \(c. 24\)](#), **ss. 1(1)**, 3(2) (with s. 1(2))
- C5** S. 16A(3)(aa)(b) continued (4.5.2016) by [Northern Ireland \(Stormont Agreement and Implementation Plan\) Act 2016 \(c. 13\)](#), s. 11(2), **Sch. 1 para. 2(2)**; (to find section 16A(3)(aa), see the modification of section 16A by paragraph 3B of Schedule 4A of this Act)

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

**C6** S. 16A(8) excluded (12.3.2009 temp. until 30.4.2012) by Northern Ireland Act 2009, (c. 3), ss. 1, 5, {Sch. 1 para. 7(3)(a)}

## **16B Vacancies in the office of First Minister or deputy First Minister**

- (1) The First Minister or the deputy First Minister—
  - (a) may at any time resign by notice in writing to the Presiding Officer; and
  - (b) shall cease to hold office if he ceases to be a member of the Assembly otherwise than by virtue of a dissolution.
- (2) If either the First Minister or the deputy First Minister ceases to hold office at any time, whether by resignation or otherwise, the other—
  - (a) shall also cease to hold office at that time; but
  - (b) may continue to exercise the functions of his office until immediately before those offices are filled in accordance with this section.
- (3) Where the offices of the First Minister and the deputy First Minister become vacant at any time, they shall be filled by applying subsections (4) to (7) within a period of seven days beginning with that time.
- (4) The nominating officer of the largest political party of the largest political designation shall nominate a member of the Assembly to be the First Minister.
- (5) The nominating officer of the largest political party of the second largest political designation shall nominate a member of the Assembly to be the deputy First Minister.
- (6) If the persons nominated do not take up office within a period specified in standing orders, further nominations shall be made under subsections (4) and (5).
- (7) Subsections (4) to (6) shall be applied as many times as may be necessary to secure that the offices of First Minister and deputy First Minister are filled.
- (8) But no person may take up office as First Minister or deputy First Minister under this section after the end of the period mentioned in subsection (3) (see further section 32(3)).
- (9) The persons nominated under subsections (4) and (5) shall not take up office until each of them has affirmed the terms of the pledge of office.
- (10) This section shall be construed in accordance with, and is subject to, section 16C.

### **Textual Amendments**

**F2** Ss. 16A-16C substituted (8.5.2007) for s. 16 by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 8(1), 27(4)(5)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)): [S.I. 2007/1397](#), **art. 2**

## **16C Sections 16A and 16B: supplementary**

- (1) In sections 16A and 16B and this section “nominating officer”, in relation to a party, means—
  - (a) the person registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 as the party's nominating officer; or

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- (b) a member of the Assembly nominated by him for the purposes of this section.
- (2) For the purposes of sections 16A and 16B and this section—
- (a) the size of a political party is to be determined by reference to the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election; but
  - (b) if two or more parties are taken by virtue of paragraph (a) to be of the same size, the respective sizes of those parties is to be determined by reference to the number of first preference votes cast for the parties at the last general election of members of the Assembly;
- (this is subject to subsections (7) and (8)).
- (3) For the purposes of sections 16A and 16B and this section, a political party to which one or more members of the Assembly belong is to be taken—
- (a) to be of the political designation “Nationalist” if, at the relevant time (see subsection (11)), more than half of the members of the Assembly who belonged to the party were designated Nationalists;
  - (b) to be of the political designation “Unionist” if, at the relevant time, more than half of the members of the Assembly who belonged to the party were designated Unionists;
  - (c) otherwise, to be of the political designation “Other”.
- (4) For the purposes of sections 16A and 16B and this section—
- (a) the size of the political designation “Nationalist” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were designated Nationalists;
  - (b) the size of the political designation “Unionist” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were designated Unionists;
  - (c) the size of the political designation “Other” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were neither designated Nationalists nor designated Unionists.
- (5) But if two or more political designations are taken by virtue of subsection (4) to be of the same size, the respective sizes of those designations is to be determined by reference to the aggregate number of first preference votes cast, at the last general election of members of the Assembly, for members of the Assembly who, at the relevant time, were—
- (a) designated Nationalists (in the case of the political designation “Nationalist”);
  - (b) designated Unionists (in the case of the political designation “Unionist”); or
  - (c) neither designated Nationalists nor designated Unionists (in the case of the political designation “Other”).
- (6) If at any time the party which is the largest political party of the largest political designation is not the largest political party—
- (a) any nomination to be made at that time under section 16A(4) or 16B(4) shall instead be made by the nominating officer of the largest political party; and
  - (b) any nomination to be made at that time under section 16A(5) or 16B(5) shall instead be made by the nominating officer of the largest political party of the largest political designation.
- (7) Where—

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- (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 (see subsection (12)) under that provision has not come to an end,

subsection (2)(a) above shall have effect as if the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election was nil.

<sup>F4</sup>(8) .....

(9) Where—

- (a) a person nominated by the nominating officer of a political party ceased to hold office as First Minister or deputy First Minister as a result of a resolution of the Assembly under section 30(2)<sup>F5</sup>...; and
- (b) the party's period of exclusion under section 30(2)<sup>F6</sup>... subsequently comes to an end otherwise than by virtue of the dissolution of the Assembly,

the First Minister and the deputy First Minister shall cease to hold office when the party's period of exclusion under that provision comes to an end<sup>F7</sup>....

<sup>F8</sup>(10) .....

(11) In this section “the relevant time” means the end of the day on which the Assembly first met following its election.

(12) In this section, a reference to a period of exclusion<sup>F9</sup>... is, in the case of a period of exclusion<sup>F9</sup>... which has been extended, a reference to that period as extended.

(13) Standing orders may make further provision in connection with the making of nominations under sections 16A and 16B.

(14) In this Act “the pledge of office” means the pledge of office which, together with the code of conduct to which it refers, is set out in Schedule 4.]

#### Textual Amendments

- F2** Ss. 16A-16C substituted (8.5.2007) for s. 16 by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8(1), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1) (with s. 1(3)): S.I. 2007/1397, art. 2
- F4** S. 16C(8) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(a)(i)
- F5** Words in s. 16C(9)(a) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(a)(ii)
- F6** Words in s. 16C(9)(b) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(a)(iii)
- F7** Words in s. 16C(9) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(a)(iv)
- F8** S. 16C(10) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(a)(v)
- F9** Words in s. 16C(12) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(a)(vi)

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## 17 Ministerial offices.

- (1) The First Minister and the deputy First Minister acting jointly may at any time, and shall where subsection (2) applies, determine—
  - (a) the number of Ministerial offices to be held by Northern Ireland Ministers; and
  - (b) the functions to be exercisable by the holder of each such office.
- (2) This subsection applies where provision is made by an Act of the Assembly for establishing a new Northern Ireland department or dissolving an existing one.
- (3) In making a determination under subsection (1), the First Minister and the deputy First Minister shall ensure that the functions exercisable by those in charge of the different Northern Ireland departments existing at the date of the determination are exercisable by the holders of different Ministerial offices.
- (4) The number of Ministerial offices shall not exceed 10 or such greater number as the Secretary of State may by order provide.
- (5) A determination under subsection (1) shall not have effect unless it is approved by a resolution of the Assembly passed with cross-community support.

### Modifications etc. (not altering text)

C7 S. 17(5) excluded (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, Sch. 1 para. 8(7) (with Sch. 1 para. 8(9))

## 18 Northern Ireland Ministers.

- (1) Where—
  - (a) <sup>F10</sup> . . . . .
  - (b) a determination under section 17(1) takes effect;
  - (c) a resolution which causes one or more Ministerial offices to become vacant is passed under section 30(2);
  - <sup>F11</sup>[<sup>F12</sup>(d) . . . . .
  - (da) a period of exclusion under section 30(2) <sup>F13</sup>... comes to an end; or.]
  - (e) such other circumstances obtain as may be specified in standing orders,
 all Northern Ireland Ministers shall cease to hold office and the Ministerial offices shall be filled by applying subsections (2) to (6) within a period so specified.
- (2) The nominating officer of the political party for which the formula in subsection (5) gives the highest figure may select a Ministerial office and nominate a person to hold it who is a member of the party and of the Assembly.
- (3) If—
  - (a) the nominating officer does not exercise the power conferred by subsection (2) within a period specified in standing orders; or
  - (b) the nominated person does not take up the selected Ministerial office within that period,
 that power shall become exercisable by the nominating officer of the political party for which the formula in subsection (5) gives the next highest figure.

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(4) Subsections (2) and (3) shall be applied as many times as may be necessary to secure that each of the Ministerial offices is filled.

(5) The formula is—

$$\frac{S}{1 + M}$$

where—

S = the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election;

M = the number of Ministerial offices (if any) which are held by members of the party.

(6) Where the figures given by the formula for two or more political parties are equal, each of those figures shall be recalculated with S being equal to the number of first preference votes cast for the party at the last general election of members of the Assembly.

(7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold a Ministerial office.

(8) A Northern Ireland Minister shall not take up office until he has affirmed the terms of the pledge of office.

(9) A Northern Ireland 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 nominating officer who nominated him (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(10) Where a Ministerial office is vacant otherwise than by virtue of subsection (1), the nominating officer of the party on whose behalf the previous incumbent was nominated may nominate a person to hold the office who is a member of the party and of the Assembly.

(11) If—

- (a) the nominating officer does not exercise the power conferred by subsection (10) within a period specified in standing orders; or
- (b) the nominated person does not take up the office within that period,

the vacancy shall be filled by applying subsections (2) to (6) within a period specified in standing orders.

(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 [<sup>F14</sup>under that provision] has not come to an end,

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the party shall be disregarded for the purposes of any application of subsections (2) to (6).

<sup>F15</sup>(12A) .....

<sup>F15</sup>(12B) .....

[<sup>F16</sup>(13) In this section “nominating officer”, in relation to a party, means—

- (a) the person registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 as the party's nominating officer; or
- (b) a member of the Assembly nominated by him for the purposes of this section.]

[<sup>F17</sup>(14) In this section, a reference to a period of exclusion <sup>F18</sup>... is, in the case of a period of exclusion <sup>F18</sup>... which has been extended, a reference to that period as extended.]

#### Textual Amendments

- F10** S. 18(1)(a) omitted (8.5.2007) by virtue of Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 2(2)} (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F11** S. 18(1)(d) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(b)(i)**
- F12** S. 18(1)(d)(da) substituted (7.1.2004) for s. 18(1)(d) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 5(2), 12**; S.I. 2004/83, **art. 2**
- F13** Words in s. 18(1)(da) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(b)(ii)**
- F14** Words in s. 18(12)(b) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 5(3), 12**; S.I. 2004/83, **art. 2**
- F15** S. 18(12A)(12B) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(b)(iii)**
- F16** S. 18(13) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), Sch. 5 para. 2(3) (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F17** S. 18(14) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 5(5), 12**; S.I. 2004/83, **art. 2**
- F18** Words in s. 18(14) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(b)(iv)**

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

- C8** S. 18(1) excluded (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), s. 11(2), **Sch. 1 para. 2(1)**
- C9** S. 18(1)(b) excluded (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 6**
- C10** S. 18(2)-(6) applied (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), 27(1), {Sch. 2 para. 2(5)(6)}; S.I. 2007/1397, **art. 2**
- C11** S. 18(2)-(6) applied (24.3.2016) by Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 (c. 10), **ss. 3(2), 17**
- C12** S. 18(10) applied (12.2.2000) by 2000 c. 1, s. 3(7)(a); S.I. 2000/396, **art. 2**
- C13** S. 18(10) applied (24.3.2016) by Assembly and Executive Reform (Assembly Opposition) Act (Northern Ireland) 2016 (c. 10), **ss. 3(2)(c), 17**



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

## 19 Junior Ministers.

- (1) The First Minister and the deputy First Minister acting jointly may at any time determine—
  - (a) that a number of members of the Assembly specified in the determination shall be appointed as junior Ministers in accordance with such procedures for their appointment as are so specified; and
  - (b) that the functions exercisable by virtue of each junior Ministerial office shall be those specified in relation to that office in the determination.
- (2) Procedures specified in a determination under this section may apply such formulae or other rules as the First Minister and the deputy First Minister consider appropriate.
- (3) A determination under this section shall—
  - (a) make provision as to the circumstances in which a junior Minister shall cease to hold office, and for the filling of vacancies; and
  - (b) provide that a junior Minister shall not take up office until he has affirmed the terms of the pledge of office.
- (4) A determination under this section shall not take effect until it has been approved by a resolution of the Assembly.
- (5) Where a determination under this section takes effect—
  - (a) any junior Ministers previously appointed shall cease to hold office; and
  - (b) the procedures specified in the determination shall be applied within a period specified in standing orders.

### Modifications etc. (not altering text)

C14 S. 19(3)(a) applied (12.2.2000) by 2000 c. 1, s. 3(7)(b); S.I. 2000/396, art. 2

## <sup>F19</sup> <sup>F20</sup>19A Disqualification for certain offices which may be held by members of the Assembly.

- (1) No person may—
  - <sup>F21</sup>(a) be nominated to hold the office of First Minister or deputy First Minister or a Ministerial office to be held by a Northern Ireland Minister,]
  - (c) be appointed as a junior Minister, or
  - (d) be nominated under paragraph 7 of Schedule 1 to the Police (Northern Ireland) Act 2000 (members of the Northern Ireland Policing Board drawn from the Northern Ireland Assembly),if he is the holder of a disqualifying office.
- (2) A Minister or junior Minister ceases to hold that office on becoming the holder of a disqualifying office.
- (3) A person holding office as a member of the Northern Ireland Policing Board in accordance with paragraph 7 of Schedule 1 to the Police (Northern Ireland) Act 2000 ceases to hold that office on becoming the holder of a disqualifying office.
- (4) In this section “disqualifying office” means—
  - (a) Minister of the Government of Ireland; or

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- (b) chairman or deputy chairman of—
- (i) a committee of the Dáil Éireann (House of Representatives of Ireland);
  - (ii) a committee of the Seanad Éireann (Senate of Ireland); or
  - (iii) a joint committee of the Oireachtas (National Parliament of Ireland).]

#### Textual Amendments

**F19** S. 19A inserted (30.11.2000) by 2000 c. 42, s. 2

**F20** S. 19A inserted (30.11.2000) by 2000 c. 42, s. 2

**F21** S. 19A(1)(a) substituted for s. 19A(1)(a)(b) (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 8, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 5 para. 3} (with s. 1(3)); S.I. 2007/1397, art. 2

## 20 The Executive Committee.]

- (1) There shall be an Executive Committee of each Assembly consisting of the First Minister, the deputy First Minister and the Northern Ireland Ministers.
- (2) The First Minister and the deputy First Minister shall be chairmen of the Committee.
- (3) The Committee shall have the functions set out in paragraphs 19 and 20 of Strand One of the Belfast Agreement.
- [<sup>F22</sup>(4) The Committee shall also have the function of discussing and agreeing upon—
  - (a) significant or controversial matters that are clearly outside the scope of the agreed programme referred to in paragraph 20 of Strand One of that Agreement;
  - (b) significant or controversial matters that the First Minister and deputy First Minister acting jointly have determined to be matters that should be considered by the Executive Committee.]
- [<sup>F23</sup>(5) Subsections (3) and (4) are subject to subsection (6).
- (6) Quasi-judicial decisions may be made by the Department of Justice or the Minister in charge of that Department without recourse to the Executive Committee.]

#### Textual Amendments

**F19** S. 19A inserted (30.11.2000) by 2000 c. 42, s. 2

**F22** S. 20(4) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 5(1), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

**F23** S. 20(5)(6) inserted (12.4.2010) by The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 (S.I. 2010/976), arts. 1(2), 23 (with arts. 28-31)

## 21 Northern Ireland departments.

- (1) Subject to subsection (2), the Northern Ireland departments existing on the appointed day shall be the Northern Ireland departments for the purposes of this Act.

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- (2) Provision may be made by Act of the Assembly for establishing new Northern Ireland departments or dissolving existing ones.
- (3) If an Act of the Assembly which establishes a new Northern Ireland department provides for it to be in the charge of the First Minister and the deputy First Minister acting jointly—
  - (a) the department shall not be regarded as a Northern Ireland department for the purposes of subsection (2) or (3) of section 17; and
  - (b) the office held by those Ministers as the head of the department shall not be regarded as a Ministerial office for the purposes of subsection (4) of that section or section 18.

#### **[<sup>F24</sup>21A Northern Ireland department with policing and justice functions**

- (1) An Act of the Assembly that—
  - (a) establishes a new Northern Ireland department; and
  - (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions,may (but need not) make provision of the kind mentioned in subsection (3) [<sup>F25</sup>, (3A)], (4), (5) or (5A).
- (3) The Act may provide for the department to be in the charge of a Northern Ireland Minister appointed by virtue of a nomination—
  - (a) made by the First Minister and the deputy First Minister acting jointly; and
  - (b) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

- [ The Act may provide for the department to be in the charge of a Northern Ireland <sup>F26</sup>(3A) Minister appointed by virtue of a nomination—
- (a) made by one or more members of the Assembly, and
  - (b) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.]

- (4) The Act may provide for the department to be in the charge of two Northern Ireland Ministers acting jointly.
- (5) The Act may provide—
  - (a) for the department to be in the charge of a Northern Ireland Minister who is supported by a junior Minister; and
  - (b) for the persons holding those offices to rotate at intervals determined by or under the Act, so that the person who was the Minister in charge of the department becomes the junior Minister and the person who was the junior Minister becomes the Minister.
- (5A) The Act may provide—
  - (a) for the department to be in the charge of a Northern Ireland Minister elected by the Assembly; and
  - (b) for that Minister to be supported by a deputy Minister elected by the Assembly.

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- (6) There must not, at any time, be more than one department in relation to which provision of the kind mentioned in any of subsections (3) [<sup>F25</sup>, (3A)], (4), (5) and (5A) is made by Act of the Assembly, or by Order in Council under subsection (7C).
- (7) Schedule 4A (provisions relating to a department with devolved policing and justice functions) shall have effect.
- (7A) If it appears to the Secretary of State that there is no reasonable prospect that the Assembly will pass an Act of the kind described in subsection (1)(a) and (b), he may lay before Parliament the draft of an Order in Council which—
- (a) establishes a new Northern Ireland department;
  - (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions;
  - (c) provides for the department to be in the charge of a Northern Ireland Minister elected by the Assembly and for that Minister to be supported by a deputy Minister elected by the Assembly; and
  - (d) provides for Part 3A of Schedule 4A to apply in relation to the department (with any necessary modifications).
- (7B) The draft of an Order laid before Parliament under subsection (7A) may contain supplementary, incidental, consequential, transitional or saving provision.
- (7C) If the draft of an Order laid before Parliament under subsection (7A) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.
- (7D) No more than one department may be established by virtue of an Order under subsection (7C).
- (8) In this section “devolved policing and justice function” means a function relating to a matter which—
- (a) is a transferred matter by virtue of an Order under section 4; and
  - (b) immediately before the matter became a transferred matter, was a policing and justice matter (within the meaning given by section 4(6)).]

#### Textual Amendments

- F24** S. 21A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), s. 17(1), 31 (as amended (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(7), 27(4)(5) (with s. 1(3)) (as amended by Northern Ireland (St. Andrews Agreement) Act 2007 (c. 4), s. 1(1)); S.I. 2007/1397, art. 2) (and as further amended (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44, 53; S.I. 2009/446, art. 3); S.I. 2009/448, art. 2
- F25** Words in s. 21A(1)(6) inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, Sch. 1 para. 3(2)
- F26** S. 21A(3A) inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, Sch. 1 para. 3(3)

#### [<sup>F27</sup> 21B Section 21A(5A) and (7C): transitional provision

- (1) This section has effect in relation to—
- (a) the first Act of the Assembly to establish a new Northern Ireland department [<sup>F28</sup> the purpose of which is to exercise functions consisting wholly or mainly of devolved policing and justice functions but only if the Act makes provision

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- of the kind mentioned in section 21A(5A) (other than by virtue of paragraph 8(5) of Schedule 1 to the Northern Ireland Act 2009)] ; or
- (b) an Order in Council under section 21A(7C) establishing a new Northern Ireland department.
- (2) The Act or the Order may include provision for or in connection with securing that the department is to be treated, for the purposes of section 17, as not having been established until the time at which devolved policing and justice functions are first transferred to, or conferred on, the department (“the time of devolution”).
- (3) The Act or the Order may include provision for or in connection with applying paragraph 11E(3) to (6) of Schedule 4A (with any necessary modifications) to enable elections to be held, before the time of devolution, to select—
- (a) a member of the Assembly (“the relevant Minister designate”) to be the person who is to hold the relevant Ministerial office as from the time of devolution; and
- (b) a member of the Assembly (“the deputy Minister designate”) to be the person who is to hold the deputy Ministerial office as from that time.
- (4) Where the Act or the Order includes provision by virtue of subsection (3), it shall secure that (notwithstanding paragraph 11E(1) of Schedule 4A)—
- (a) if the relevant Minister designate affirms the terms of the pledge of office within a specified period after the time of devolution, he shall become the relevant Minister;
- (b) if the deputy Minister designate affirms the terms of the pledge of office within that period, he shall (subject to paragraph (c)) become the deputy Minister;
- (c) if the relevant Minister designate does not affirm the terms of the pledge of office within that period—
- (i) he shall not become the relevant Minister; and
- (ii) paragraph 11E(10) and (11) of Schedule 4A shall apply as if the relevant Minister had ceased to hold office at the end of that period otherwise than by virtue of section 16A(2);
- (d) if the deputy Minister designate does not affirm the terms of the pledge of office within that period—
- (i) he shall not become the deputy Minister; and
- (ii) paragraph 11E(10) of Schedule 4A shall apply as if the deputy Minister had ceased to hold office at the end of that period otherwise than by virtue of section 16A(2).
- (5) In this section “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).
- (6) In this section “relevant Minister”, “relevant Ministerial office”, “deputy Minister” and “deputy Ministerial office” have the same meaning as in Part 3A of Schedule 4A.]

#### Textual Amendments

- F27** S. 21B inserted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44(6), 53; S.I. 2009/446, art. 3(2)(a)
- F28** Words in s. 21B(1)(a) substituted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, Sch. 1 para. 9

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**[<sup>F29</sup>21C Section 21A(5A) and (7C): power of Assembly to secure retention or abolition of deputy Ministerial office**

- (1) This section applies if [<sup>F30</sup>the first Northern Ireland department the purpose of which is to exercise functions consisting wholly or mainly of devolved policing and justice functions (as defined in section 21A(8))] is established—
  - (a) by an Act of the Assembly which makes provision of the kind mentioned in section 21A(5A) [<sup>F31</sup>(other than by virtue of paragraph 8(5) of Schedule 1 to the Northern Ireland Act 2009)] ; or
  - (b) by an Order in Council under section 21A(7C).
- (2) Standing orders shall require the committee established by virtue of section 29A to consider the operation of the Ministerial arrangements provided for by Part 3A of Schedule 4A.
- (3) The committee shall, by no later than two years and ten months after the time at which devolved policing and justice functions are first transferred to, or conferred on, the department (“the time of devolution”), make a report on the operation of the Ministerial arrangements provided for by Part 3A of Schedule 4A—
  - (a) to the Assembly; and
  - (b) to the Executive Committee,
 and the report must include a recommendation as to whether or not the deputy Ministerial office (see subsection (8)) should be retained.
- (4) If before the end of the period of three years beginning with the time of devolution (“the initial period”) the Assembly resolves that the deputy Ministerial office should be abolished at a time specified in the resolution (before the end of the initial period), the Secretary of State shall make an order abolishing the deputy Ministerial office (see subsection (9)) at, or as soon as reasonably practicable after, the time specified.
- (5) If—
  - (a) subsection (4) does not apply; and
  - (b) the Assembly does not resolve, before the end of the initial period, that the deputy Ministerial office should be retained for an additional period ending after the initial period,
 the Secretary of State shall make an order abolishing the deputy Ministerial office as soon as reasonably practicable after the end of the initial period.
- (6) If—
  - (a) subsection (4) does not apply;
  - (b) the Assembly resolves that the deputy Ministerial office should be retained for an additional period ending after the initial period or for one or more further additional periods; and
  - (c) one of those additional periods ends without a further additional period having begun,
 the Secretary of State shall make an order abolishing the deputy Ministerial office as soon as reasonably practicable after the end of that period.
- (7) A resolution of the Assembly under this section shall not be passed without 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

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- (c) a majority of the designated Unionists voting.
- (8) In this section “deputy Ministerial office” has the same meaning as in Part 3A of Schedule 4A.
- (9) In this section references to an order abolishing the deputy Ministerial office are to an order amending this Act and any other enactment so far as may be necessary to secure that the Northern Ireland Minister in charge of the department for the time being—
- (a) is not to be supported by a deputy Minister (within the meaning of Part 3A of Schedule 4A); and
  - (b) need not belong to the largest or the second largest political designation (within that meaning).
- (10) An order under this section—
- (a) shall be made by statutory instrument; and
  - (b) may contain supplementary, incidental, consequential, transitional or saving provision.]

#### Textual Amendments

- F29** S. 21C inserted (11.3.2009) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 44\(7\), 53; S.I. 2009/446, art. 3\(2\)\(a\)](#)
- F30** Words in s. 21C(1) substituted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\), ss. 1, 5, Sch. 1 para. 10\(a\)](#)
- F31** Words in s. 21C(1)(a) inserted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\), ss. 1, 5, Sch. 1 para. 10\(b\)](#)

### Functions

#### 22 Statutory functions.

- (1) An Act of the Assembly or other enactment may confer functions on a Minister (but not a junior Minister) or a Northern Ireland department by name.
- (2) Functions conferred on a Northern Ireland department by an enactment passed or made before the appointed day shall, except as provided by an Act of the Assembly or other subsequent enactment, continue to be exercisable by that department.

#### 23 Prerogative and executive powers.

- (1) The executive power in Northern Ireland shall continue to be vested in Her Majesty.
  - (2) As respects transferred matters, the prerogative and other executive powers of Her Majesty in relation to Northern Ireland shall, subject to <sup>F32</sup>subsections (2A) and (3) , be exercisable on Her Majesty’s behalf by any Minister or Northern Ireland department.
- <sup>F33</sup>(2A) So far as the Royal prerogative of mercy is exercisable on Her Majesty’s behalf under subsection (2), it is exercisable only by the Minister in charge of the Department of Justice.]
- (3) As respects the Northern Ireland Civil Service and the Commissioner for Public Appointments for Northern Ireland, the prerogative and other executive powers of Her

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Majesty in relation to Northern Ireland shall be exercisable on Her Majesty's behalf by the First Minister and the deputy First Minister acting jointly.

- (4) The First Minister and deputy First Minister acting jointly may by prerogative order under subsection (3) direct that such of the powers mentioned in that subsection as are specified in the order shall be exercisable on Her Majesty's behalf by a Northern Ireland Minister or Northern Ireland department so specified.

#### Textual Amendments

- F32** Words in s. 23(2) substituted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), **24(2)** (with arts. 25, 28-31)
- F33** S. 23(2A) inserted (12.4.2010) by [The Northern Ireland Act 1998 \(Devolution of Policing and Justice Functions\) Order 2010 \(S.I. 2010/976\)](#), arts. 1(2), **24(3)** (with arts. 25, 28-31)

## 24 <sup>[F34]</sup>EU law, Convention rights etc.

- (1) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation, or to do any act, so far as the legislation or act—
- is incompatible with any of the Convention rights;
  - is incompatible with <sup>[F34]</sup>EU law;
  - discriminates against a person or class of person on the ground of religious belief or political opinion;
  - in the case of an act, aids or incites another person to discriminate against a person or class of person on that ground; or
  - in the case of legislation, modifies an enactment in breach of section 7.
- (2) Subsection (1)(c) and (d) does not apply in relation to any act which is unlawful by virtue of the <sup>[F35]</sup>Fair Employment and Treatment (Northern Ireland) Order 1998], or would be unlawful but for some exception made by virtue of <sup>[F35]</sup>Part VIII of that Order].
- <sup>[F36]</sup>(3) A Minister or Northern Ireland department has no power to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law and the modification is of a description specified in regulations made by a Minister of the Crown.
- (4) But subsection (3) does not apply—
- so far as the modification would be within the legislative competence of the Assembly if it were included in an Act of the Assembly, or
  - to the making of regulations under Schedule 2 or 4 to the European Union (Withdrawal) Act 2018.
- (5) A Minister of the Crown must not lay for approval before each House of the Parliament a draft of a statutory instrument containing regulations under subsection (3) unless—
- the Assembly has made a consent decision in relation to the laying of the draft, or
  - the 40 day period has ended without the Assembly having made such a decision.
- (6) For the purposes of subsection (5) a consent decision is—
- a decision to agree a motion consenting to the laying of the draft,



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- (b) a decision not to agree a motion consenting to the laying of the draft, or  
(c) a decision to agree a motion refusing to consent to the laying of the draft;  
and a consent decision is made when the Assembly first makes a decision falling within any of paragraphs (a) to (c) (whether or not it subsequently makes another such decision).
- (7) A Minister of the Crown who is proposing to lay a draft as mentioned in subsection (5) must—
- (a) provide a copy of the draft to the relevant Northern Ireland department, and  
(b) inform the Presiding Officer that a copy has been so provided.
- (8) See also section 96A (duty to make explanatory statement about regulations under subsection (3) including a duty to explain any decision to lay a draft without the consent of the Assembly).
- (9) No regulations may be made under subsection (3) after the end of the period of two years beginning with exit day.
- (10) Subsection (9) does not affect the continuation in force of regulations made under subsection (3) at or before the end of the period mentioned in subsection (9).
- (11) Any regulations under subsection (3) which are in force at the end of the period of five years beginning with the time at which they came into force are revoked in their application to the making, confirming or approving of subordinate legislation after the end of that period.
- (12) Subsections (5) to (10) do not apply in relation to regulations which only relate to a revocation of a specification.
- (13) Regulations under subsection (3) may include such supplementary, incidental, consequential, transitional, transitory or saving provision as the Minister of the Crown making them considers appropriate.
- (14) The restriction in subsection (3) is in addition to any restriction in section 7 of the European Union (Withdrawal) Act 2018 or elsewhere on the power of a Minister or Northern Ireland department to make, confirm or approve any subordinate legislation so far as the legislation modifies retained EU law.
- (15) In this section—  
“the relevant Northern Ireland department” means such Northern Ireland department as the Minister of the Crown concerned considers appropriate;  
“the 40 day period” means the period of 40 days beginning with the day on which a copy of the draft instrument is provided to the relevant Northern Ireland department,  
and, in calculating that period, no account is to be taken of any time during which the Assembly is dissolved or during which it is in recess for more than four days.]

#### Textual Amendments

**F34** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

**F35** Words in s. 24(2) substituted (1.3.1999) by [S.I. 1998/3162 \(N.I. 21\)](#), art. 105(1), [Sch. 3](#); [S.R. 1999/81](#), [art. 3\(1\)](#)

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**F36** S. 24(3)-(15) inserted (26.6.2018 for specified purposes) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), s. 25(3)(c), [Sch. 3 para. 3\(b\)](#) (with s. 19, Sch. 8 paras. 37, 41, 42)

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

**C15** S. 24(3)-(15): power to repeal conferred (4.7.2018) by [European Union \(Withdrawal\) Act 2018 \(c. 16\)](#), [ss. 12\(9\)-\(11\)](#), 25(4) (with s. 19, Sch. 8 paras. 37, 41); S.I. 2018/808, reg. 3(c)

**25 Exempted and reserved matters.**

- (1) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision dealing with an exempted or reserved matter, the Secretary of State may by order revoke the legislation.
- (2) An order made under subsection (1) shall recite the reasons for revoking the legislation and may make provision having retrospective effect.

**26 International obligations.**

- (1) If the Secretary of State considers that any action proposed to be taken by a Minister or Northern Ireland department would be incompatible with any international obligations, with the interests of defence or national security or with the protection of public safety or public order, he may by order direct that the proposed action shall not be taken.
- (2) If the Secretary of State considers that any action capable of being taken by a Minister or Northern Ireland department is required for the purpose of giving effect to any international obligations, of safeguarding the interests of defence or national security or of protecting public safety or public order, he may by order direct that the action shall be taken.
- (3) In subsections (1) and (2), “action” includes making, confirming or approving subordinate legislation and, in subsection (2), includes introducing a Bill in the Assembly.
- (4) If any subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department contains a provision which the Secretary of State considers—
  - (a) would be incompatible with any international obligations, with the interests of defence or national security or with the protection of public safety or public order; or
  - (b) would have an adverse effect on the operation of the single market in goods and services within the United Kingdom,
 the Secretary of State may by order revoke the legislation.
- (5) An order under this section shall recite the reasons for making the order and may make provision having retrospective effect.

**27 Quotas for purposes of international etc obligations.**

- (1) A Minister of the Crown may make an order containing provision such as is specified in subsection (2) where—
  - (a) an international obligation or an obligation under [F34EU] law is an obligation to achieve a result defined by reference to a quantity (whether expressed as an amount, proportion or ratio or otherwise); and

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- (b) the quantity relates to the United Kingdom (or to an area including the United Kingdom or to an area consisting of a part of the United Kingdom which is or includes the whole or part of Northern Ireland).
- (2) The provision referred to in subsection (1) is provision for the achievement by a Minister or Northern Ireland department (in the exercise of his or its functions) of so much of the result to be achieved under the international obligation or obligation under [F34EU] law as is specified in the order.
- (3) The order may specify the time by which any part of the result to be achieved by the Minister or department is to be achieved.
- (4) Where an order under subsection (1) is in force in relation to an international obligation or an obligation under [F34EU] law, the obligation shall have effect for the purposes of this Act as if it were an obligation to achieve so much of the result to be achieved under the obligation as is specified in the order by the time or times so specified.
- (5) No order shall be made by a Minister of the Crown under subsection (1) unless he has consulted the Minister or department concerned.

#### Textual Amendments

**F34** Words in Act substituted (22.4.2011) by [The Treaty of Lisbon \(Changes in Terminology\) Order 2011 \(S.I. 2011/1043\)](#), arts. 2, 3, 6 (with arts. 3(2)(3), 4(2), 6(4)(5))

## 28 Agency arrangements between UK and NI departments.

- (1) Arrangements may be made between—
  - (a) any department of the Government of the United Kingdom or any public body, or holder of a public office, in the United Kingdom; and
  - (b) any Northern Ireland department,for any functions of one of them to be discharged by, or by officers of, the other.
- (2) No such arrangements shall affect the responsibility of the person on whose behalf any functions are discharged.
- (3) In this section—
  - (a) references to a department of the Government of the United Kingdom include references to any Minister of the Crown; and
  - (b) references to a Northern Ireland department include references to a Minister.

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

**C16** [S. 28](#) modified (7.4.2005 at 5:45 pm) by [Commissioners for Revenue and Customs Act 2005 \(c. 11\)](#), s. 15(2), S.I. 2005/1126, {art. 2}

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## *[<sup>F37</sup> Ministerial Code*

### Textual Amendments

**F37** S. 28A and preceding cross-heading inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), **5(2)**, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

## 28A Ministerial Code

- (1) Without prejudice to the operation of section 24, a Minister or junior Minister shall act in accordance with the provisions of the Ministerial Code.
- (2) In this section “the Ministerial Code” means—
  - (a) the Ministerial Code that becomes the Ministerial Code for the purposes of this section by virtue of paragraph 4 of Schedule 1 to the Northern Ireland (St Andrews Agreement) Act 2006 (as from time to time amended in accordance with this section); or
  - (b) any replacement Ministerial Code prepared and approved in accordance with this section (as from time to time amended in accordance with this section).
- (3) If at any time the Executive Committee—
  - (a) prepares draft amendments to the Ministerial Code; or
  - (b) prepares a draft Ministerial Code to replace the Ministerial Code,
 the First Minister and deputy First Minister acting jointly shall lay the draft amendments or the draft Code before the Assembly for approval.
- (4) A draft Ministerial Code or a draft amendment to the Code—
  - (a) shall not be approved by the Assembly without cross-community support; and
  - (b) shall not take effect until so approved.
- (5) The Ministerial Code must include provision for requiring Ministers or junior Ministers to bring to the attention of the Executive Committee any matter that ought, by virtue of section 20(3) or (4), to be considered by the Committee.
- (6) The Ministerial Code must include provision for a procedure to enable any Minister or junior Minister to ask the Executive Committee to determine whether any decision that he is proposing to take, or has taken, relates to a matter that ought, by virtue of section 20(3) or (4), to be considered by the Committee.
- (7) The Ministerial Code must also include provision as to the procedures of the Executive Committee with respect to—
  - (a) the taking of decisions; and
  - (b) consideration by the Committee of decision papers that are to be considered by the North-South Ministerial Council or the British-Irish Council.
- (8) The Ministerial Code must in particular provide—
  - (a) that it is the duty of the chairmen of the Executive Committee to seek to secure that decisions of the Executive Committee are reached by consensus wherever possible;
  - (b) that, if consensus cannot be reached, a vote may be taken; and

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- (c) that, if any three members of the Executive Committee require the vote on a particular matter which is to be voted on by the Executive Committee to require cross-community support, any vote on that matter in the Executive Committee shall require cross-community support in the Executive Committee.
- (9) The Ministerial Code may include such other provisions as the Executive Committee thinks fit.
- (10) Without prejudice to the operation of section 24, a Minister or junior Minister has no Ministerial authority to take any decision in contravention of a provision of the Ministerial Code made under subsection (5).]

*f<sup>F38</sup>Power to refer Ministerial decision to Executive Committee*

**Textual Amendments**

**F38** S. 28B and preceding cross-heading inserted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\), ss. 2\(2\), 6, 27\(4\)\(5\)](#) (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\), s. 1\(1\)](#)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

**28B Power to refer Ministerial decision to Executive Committee**

- (1) This section applies if 30 members petition the Assembly expressing concern that a decision taken by a Minister or junior Minister (“the Ministerial decision”)—
- (a) may have been taken in contravention of section 28A(1); or
  - (b) relates to a matter of public importance.
- (2) But this section does not apply if the Ministerial decision has previously been the subject of a reference under this section.
- (3) If the Presiding Officer, after consulting the political parties whose members hold seats in the Assembly, certifies that the Ministerial decision relates to a matter of public importance, he shall refer the decision to the Executive Committee for its consideration.
- (4) Having considered the reference, the Executive Committee shall notify the Presiding Officer—
- (a) whether or not the decision was, in its view, taken in contravention of section 28A(1);
  - (b) whether or not the decision relates, in its view, to a significant or controversial matter; and
  - (c) as to any action that the Executive Committee proposes to take, or has taken, in relation to the decision.
- (5) No reference may be made under this section after the end of the period of seven days beginning with—
- (a) the day on which the Ministerial decision was taken; or
  - (b) if appropriate, the day on which the decision was notified to the Assembly.

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- (6) Any consideration by the Executive Committee of a Ministerial decision under this section must be completed before the end of the period of seven days beginning with the day on which the reference is made.
- (7) Standing orders shall make provision with respect to the procedure to be followed—
- (a) in petitioning the Assembly under subsection (1); and
  - (b) in making a reference under this section.
- (8) The periods mentioned in subsections (5) and (6) shall be computed by reference only to days on which the Assembly sits.]

*[<sup>F39</sup>Executive Committee: further provisions*

#### Textual Amendments

**F39** S. 28C and preceding cross-heading inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 14, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

### 28C Power of Executive Committee to call for witnesses and documents

Section 44 applies to the Executive Committee as it applies to the Assembly, but as if—

- (a) in subsection (1), for “any person” there were substituted “a senior officer of a Northern Ireland department (within the meaning given by Article 2(3) of the Departments (Northern Ireland) Order 1999)”;
- (b) at the end of that subsection there were inserted “but only in so far as they are matters in relation to which the Executive Committee's functions under section 20(3) or (4) are exercisable”;
- (c) subsection (6) were omitted; and
- (d) in subsection (7), for “The Presiding Officer” there were substituted “The First Minister and the deputy First Minister acting jointly”.]

### [<sup>F40</sup>28D Strategies relating to Irish language and Ulster Scots language etc

- (1) The Executive Committee shall adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language.
- (2) The Executive Committee shall adopt a strategy setting out how it proposes to enhance and develop the Ulster Scots language, heritage and culture.
- (3) The Executive Committee—
  - (a) must keep under review each of the strategies; and
  - (b) may from time to time adopt a new strategy or revise a strategy.]

#### Textual Amendments

**F40** S. 28D inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 15, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

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

## [<sup>F41</sup>28E Strategy relating to poverty, social exclusion etc

- (1) The Executive Committee shall adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need.
- (2) The Executive Committee—
  - (a) must keep under review the strategy; and
  - (b) may from time to time adopt a new strategy or revise the strategy.]

### Textual Amendments

**F41** S. 28E inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), 16, 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

### *Miscellaneous*

## 29 Statutory committees.

- (1) Standing orders shall make provision—
  - (a) for establishing committees of members of the Assembly (“statutory committees”)
    - [<sup>F42</sup>(i) to advise and assist the First Minister and the deputy First Minister in the formulation of policy with respect to matters within their responsibilities as Ministers jointly in charge of the Office of the First Minister and deputy First Minister, and
    - (ii) ]to advise and assist each Northern Ireland Minister in the formulation of policy with respect to matters within his responsibilities as a Minister;
  - (b) for enabling a committee to be so established either in relation to a single Northern Ireland Minister or in relation to more than one; and
  - (c) conferring on the committees the powers described in paragraph 9 of Strand One of the Belfast Agreement.
- (2) Standing orders shall provide that—
  - (a) the nominating officer of the political party for which the formula in subsection (3) gives the highest figure may select a statutory committee and nominate as its chairman or deputy chairman a person who is a member of the party and of the Assembly;
  - (b) if the nominating officer does not exercise the power conferred by paragraph (a) within a period specified in standing orders, or the nominated person does not take up the selected office within that period, that power shall be exercisable instead by the nominating officer of the political party for which the formula in subsection (3) gives the next highest figure; and
  - (c) paragraphs (a) and (b) shall be applied as many times as may be necessary to secure that a chairman and deputy chairman are nominated for each of the statutory committees.
- (3) The formula is—

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$$\frac{S}{1 + C}$$

where—

S = the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election;

C = the number of chairmen and deputy chairmen of statutory committees (if any) who are members of the party.

(4) Standing orders shall provide that, where the figures given by the formula for two or more political parties are equal, each of those figures shall be recalculated with S being equal to the number of first preference votes cast for the party at the last general election of members of the Assembly.

(5) Standing orders shall provide that—

- (a) a Minister or junior Minister may not be the chairman or deputy chairman of a statutory committee; and
- (b) in making a selection under the provision made by virtue of subsection (2) (a), a nominating officer shall prefer a committee in which he does not have a party interest to one in which he does.

[<sup>F43</sup>(5A) A member of the Assembly who is—

- (a) a Minister of the Government of Ireland, or
- (b) chairman or deputy chairman of—
  - (i) a committee of the Dáil ĩireann (House of Representatives of Ireland),
  - (ii) a committee of the Seanad ĩireann (Senate of Ireland), or
  - (iii) a joint committee of the Oireachtas (National Parliament of Ireland),
 may not be the chairman or deputy chairman of a statutory committee.]

(6) For the purposes of subsection (5) a nominating officer has a party interest in a committee if

- [<sup>F44</sup>(a) it is established to advise and assist the First Minister and the deputy First Minister and either of those Ministers is a member of his party; or
- (b) it is established to advise and assist a Northern Ireland Minister and that Minister is a member of his party.]

(7) Standing orders shall provide that a chairman or deputy chairman shall cease to hold office if—

- (a) he resigns by notice in writing to the Presiding Officer;
- (b) he ceases to be a member of the Assembly; or
- (c) he is dismissed by the nominating officer who nominated him (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(8) Standing orders shall provide that, where an office of chairman or deputy chairman is vacant, the nominating officer of the party on whose behalf the previous incumbent was nominated may nominate a person to hold the office who is a member of the party and of the Assembly.

(9) Standing orders shall provide that if—



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- (a) the nominating officer does not exercise the power conferred by subsection (8) within a period specified in standing orders; or
- (b) the nominated person does not take up the selected office within that period, the vacancy shall be filled by applying the provision made by virtue of subsections (2) to (5).

(10) In this section “nominating officer” has the same meaning as in section 18.

#### Textual Amendments

- F42** Words in s. 29(1)(a) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 10(2), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F43** S. 29(5A) inserted (30.11.2000) by 2000 c. 42, **s. 3(1)**
- F44** S. 29(6)(a)(b) substituted for words (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 10(3), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

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

- C17** S. 29 modified (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 2(2)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), 27(4)(5) {Sch. 2 para. 5} (with s. 1(3)); S.I. 2007/1397, **art. 2**
- C18** S. 29(8) applied (12.2.2000) by 2000 c. 1, **s. 3(7)(c)**; S.I. 2000/396, **art. 2**

### [<sup>F45</sup>29A Committee to review functioning of Assembly and Executive Committee

- (1) Standing orders shall make provision—
  - (a) for establishing a committee to examine such matters relating to the functioning of the Assembly and the Executive Committee as may be specified in the standing orders;
  - (b) in relation to the membership of the committee; and
  - (c) for regulating proceedings of the committee.
- (2) Standing orders shall provide for the committee to make reports—
  - (a) to the Assembly; and
  - (b) to the Executive Committee.
- (3) The committee shall, by no later than 1 May 2015, make a report on the operation of the provisions of Parts 3 and 4 of this Act—
  - (a) to the Secretary of State;
  - (b) to the Assembly; and
  - (c) to the Executive Committee.

#### Textual Amendments

- F45** Ss. 29A-29B inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 11(1), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

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## 29B Review of operation of sections 16A to 16C

(1) Standing orders shall require the committee established by virtue of section 29A to consider—

- (a) the operation of sections 16A to 16C; and
- (b) in particular, whether to recommend that the Secretary of State should make an order amending this Act and any other enactment so far as may be necessary to secure that they have effect, as from the date of the election of the 2011 Assembly, as if the executive selection amendments had not been made.

(2) In subsection (1)—

“the 2011 Assembly” means the Assembly due to be elected under section 31 in 2011;

“the executive selection amendments” means the amendments made by section 8 of, and paragraphs 1, 2(1) and (2) and 3 to 14 of Schedule 5 to, the Northern Ireland (St Andrews Agreement) Act 2006.]

### Textual Amendments

**F45** Ss. 29A-29B inserted (8.5.2007) by [Northern Ireland \(St Andrews Agreement\) Act 2006 \(c. 53\)](#), **ss. 11(1), 27(4)(5)** (as amended by [Northern Ireland \(St Andrews Agreement\) Act 2007 \(c. 4\)](#), s. 1(1)) (with s. 1(3)); [S.I. 2007/1397](#), **art. 2**

## [<sup>F46</sup>29C Review of functions relating to judicial appointments and removals

Standing orders shall require one of the committees established by virtue of section 29 or the committee established by virtue of section 29A—

- (a) to review the operation of the amendments made by Schedules 2 to 5 to the Northern Ireland Act 2009,
- (b) to report on its review by a specified date that is before 1 May 2012, and
- (c) to include in its report any recommendations it has for changes to the way in which judicial office holders are appointed and removed.]

### Textual Amendments

**F46** [S. 29C](#) inserted (12.4.2010) by [Northern Ireland Act 2009 \(c. 3\)](#), s. 5(7), **Sch. 6 para. 1**; [S.I. 2010/812](#), **art. 2**

## 30 Exclusion of Ministers from office.

(1) If the Assembly resolves that a Minister or junior Minister no longer enjoys the confidence of the Assembly—

- (a) because he is not committed to non-violence and exclusively peaceful and democratic means; or
- (b) because of any failure of his to observe any other terms of the pledge of office, he shall be excluded from holding office as a Minister or junior Minister for [<sup>F47</sup>such period of not less than three months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide] .

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- [<sup>F48</sup>(1A) The Assembly may, before a period of exclusion under subsection (1) <sup>F49</sup>... comes to an end, by resolution extend it until the end of such period of not less than three months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide.]
- (2) If the Assembly resolves that a political party does not enjoy the confidence of the Assembly—
- (a) because it is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) because it is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office, members of that party shall be excluded from holding office as Ministers or junior Ministers for [<sup>F50</sup>such period of not less than six months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide] .
- [<sup>F51</sup>(3) The Assembly may, before a period of exclusion under subsection (2) <sup>F52</sup>... comes to an end, by resolution extend it until the end of such period of not less than six months, and not more than twelve months, beginning with the date of the resolution as the resolution may provide.]
- (4) A period of exclusion [<sup>F53</sup>under subsection (1) or (2)] shall come to an end if the Assembly—
- (a) is dissolved; or
  - (b) resolves to bring the exclusion to an end.
- (5) A motion for a resolution under this section shall not be moved unless—
- (a) it is supported by at least 30 members of the Assembly;
  - (b) it is moved by the First Minister and the deputy First Minister acting jointly; or
  - (c) it is moved by the Presiding Officer in pursuance of a notice under subsection (6).
- [<sup>F54</sup>(6) If the Secretary of State is of the opinion that the Assembly ought to consider a resolution under this section, he shall serve a notice on the Presiding Officer requiring him to move a motion for such a resolution.
- (7) In forming an opinion under subsection (6), the Secretary of State shall in particular take into account [<sup>F55</sup>each of the following] —
- (a) whether the person or party concerned is committed to the use now and in the future of only democratic and peaceful means to achieve his or its objectives;
  - (b) whether he or it has ceased to be involved in any acts of violence or of preparation for violence;
  - (c) whether he or it is directing or promoting acts of violence by other persons;
  - (d) whether he or it is co-operating fully with any Commission of the kind referred to in section 7 of the Northern Ireland Arms Decommissioning Act 1997 in implementing the Decommissioning section of the Belfast Agreement; <sup>F56</sup>...
  - <sup>F57</sup>(e) .....]
- (8) A resolution under this section shall not be passed without cross-community support.
- [<sup>F58</sup>(9) In this section 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.]

*Status: Point in time view as at 04/07/2018.*

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

### Textual Amendments

- F47** Words in s. 30(1) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 4(2), 12**; S.I. 2004/83, **art. 2**
- F48** S. 30(1A) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 4(3), 12**; S.I. 2004/83, **art. 2**
- F49** Words in s. 30(1A) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(c)(i)**
- F50** Words in s. 30(2) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 4(4), 12**; S.I. 2004/83, **art. 2**
- F51** S. 30(3) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 4(5), 12**; S.I. 2004/83, **art. 2**
- F52** Word in s. 30(3) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(c)(ii)**
- F53** Words in s. 30(4) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 4(6), 12**; S.I. 2004/83, **art. 2**
- F54** S. 30(6)(7) substituted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 4(7), 12**; S.I. 2004/83, **art. 2**
- F55** Words in s. 30(7) inserted (1.4.2011) by Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), **arts. 1(2), 5(c)(iii)(aa)**
- F56** Word in s. 30(7)(d) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(c)(iii), **(bb)**
- F57** S. 30(7)(e) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), 5(c)(iii), **(cc)**
- F58** S. 30(9) inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), **ss. 4(8), 12**; S.I. 2004/83, **art. 2**

### [<sup>F59</sup>30A Secretary of State's powers in relation to exclusion

[<sup>F60</sup>(1) This section applies if—

- (a) the Monitoring Commission has, or members of that Commission have under the agreement establishing it, made a report containing a recommendation about steps the Assembly might consider taking;
  - (b) the taking of those steps by the Assembly requires the passing by it of a resolution under section 30(1), (1A), (2) or (3) in relation to a Minister, junior Minister or political party; and
  - (c) the first motion for a resolution under that provision in relation to the Minister, junior Minister or political party concerned that is put to the vote after the making of the report does not attract cross-community support.
- (2) Where this section applies because of the failure of a motion for a resolution under section 30(1), the Secretary of State may by direction exclude the Minister or junior Minister concerned from holding office as a Minister or junior Minister for such period of not less than three months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (4)).
- (3) Where this section applies because of the failure of a motion for a resolution under section 30(1A), the Secretary of State may, before the period of exclusion to which the motion related comes to an end, by direction extend it until the end of such period of not less than three months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (4)).

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- (4) The Secretary of State may exercise the power under subsection (2) or (3) only if he is satisfied that the Minister or junior Minister concerned—
  - (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) has failed to observe any other terms of the pledge of office.
- (5) Where this section applies because of the failure of a motion for a resolution under section 30(2), the Secretary of State may by direction exclude members of the political party concerned from holding office as Ministers or junior Ministers for such period of not less than six months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (7)).
- (6) Where this section applies because of the failure of a motion for a resolution under section 30(3), the Secretary of State may, before the period of exclusion to which the motion related comes to an end, by direction extend it until the end of such period of not less than six months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (7)).
- (7) The Secretary of State may exercise the power under subsection (5) or (6) only if he is satisfied that the political party concerned—
  - (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office.
- (8) A period of exclusion under subsection (2) or (5) shall come to an end if—
  - (a) the Secretary of State by direction so provides; or
  - (b) the Assembly is dissolved.
- (9) In subsection (1)(a) “the Monitoring Commission” means the Commission mentioned in section 1 of the Northern Ireland (Monitoring Commission etc.) Act 2003.
- (10) In this section 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.]]

#### Textual Amendments

**F59** S. 30A inserted (7.1.2004) by [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(c. 25\)](#), **ss. 5(1), 12**; S.I. 2004/83, **art. 2**

**F60** S. 30A ceases to have effect (31.3.2011 at the end of the day) by virtue of [Northern Ireland \(Monitoring Commission etc.\) Act 2003 \(c. 25\)](#), s. 12(2)(3); S.I. 2011/978, **art. 2**

### [<sup>F61</sup>**30B Secretary of State’s powers in exceptional circumstances**

- (1) <sup>F62</sup>...Under exceptional circumstances the Secretary of State may by direction temporarily exclude a Minister or junior Minister.
- (2) An exclusion under subsection (1) shall only remain in effect until either—
  - <sup>F63</sup>(a) .....
  - (b) the Assembly has considered a resolution under section 30(1) or (2); or
  - (c) a period of two weeks has elapsed.

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- (3) In subsection (1) “exceptional circumstances” include where—
- <sup>F64</sup>(a) .....
- (b) there is insufficient time for the Assembly to consider a resolution under section 30(1) or (2).
- (4) A direction made under this section shall be in writing and shall be laid before Parliament after the direction is given.]

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**Textual Amendments**

- F61** S. 30B inserted (7.1.2004) by Northern Ireland (Monitoring Commission etc.) Act 2003 (c. 25), ss. 6, 12; S.I. 2004/83, art. 2
- F62** Words in s. 30B(1) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(d)(i)**
- F63** S. 30B(2)(a) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(d)(ii)**
- F64** S. 30B(3)(a) omitted (1.4.2011) by virtue of Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011 (S.I. 2011/978), arts. 1(2), **5(d)(iii)**

**Status:**

Point in time view as at 04/07/2018.

**Changes to legislation:**

There are currently no known outstanding effects for the Northern Ireland Act 1998, Part III.