Northern Ireland Act 1998

1998 CHAPTER 47

PART III

EXECUTIVE AUTHORITIES

Authorities

16 First Minister and deputy First Minister.

(1) Each Assembly shall, within a period of six weeks beginning with its first meeting, elect from among its members the First Minister and the deputy First Minister.

(2) Each candidate for either office must stand for election jointly with a candidate for the other office.

(3) Two candidates standing jointly shall not be elected to the two offices without the support of a majority of the members voting in the election, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

(4) The First Minister and the deputy First Minister—

(a) shall not take up office until each of them has affirmed the terms of the pledge of office; and

(b) subject to the provisions of this Part, shall hold office until the conclusion of the next election for First Minister and deputy First Minister.

(5) 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 subsection (7)(a);

but a person shall not have power to act by virtue of paragraph (a) for a continuous period exceeding 6 weeks.

Status: *Point in time view as at 02/12/1999. This version of this cross heading contains provisions that are not valid for this point in time.*
Changes to legislation: *There are currently no known outstanding effects for the Northern Ireland Act 1998, Cross Heading: Authorities. (See end of Document for details)*

(6) 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.

(7) 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 the election required by subsection (8).

(8) Where the offices of the First Minister and the deputy First Minister become vacant at any time an election shall be held under this section to fill the vacancies within a period of six weeks beginning with that time.

(9) Standing orders may make provision with respect to the holding of elections under this section.

(10) 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 Annex A to Strand One of the Belfast Agreement (the text of which Annex is reproduced in Schedule 4).

Modifications etc. (not altering text)

C2 S. 16 amended (12.2.2000 with application when a restoration order is made) by 2000 c. 1, **s. 3**; S.I. 2000/396, **art. 2**

C3 S. 16(5) excluded (12.2.2000) by 2000 c. 1, s. 1(8), **Sch. para. 6**; S.I. 2000/396, **art. 2**

VALID FROM 08/05/2007

[F1 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 seven 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

(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

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**

Modifications etc. (not altering text)

C4 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**

C5 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)}

VALID FROM 08/05/2007

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

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**

VALID FROM 08/05/2007

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

(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—

(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.

(8) Where—

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(a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and

(b) the party's period of exclusion under that provision has not come to an end,

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.

(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) or a direction of the Secretary of State under section 30A(5); and

(b) the party's period of exclusion under section 30(2) or 30A(5) 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 (unless any period of exclusion of the party under the other provision has not come to an end).

(10) But where a direction under section 30A(5) ceases to have effect under section 95A(6) or (7), its so ceasing to have effect shall for the purposes of subsection (9) be taken not to involve the coming to an end of a period of exclusion under section 30A(5).

(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 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.

(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

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**

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)

C6 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) an Assembly is elected under section 31 or 32;

(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);

(d) the period of exclusion imposed by a resolution under section 30(2) 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.

(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—

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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 has not come to an end,

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

(13) In this section "nominating officer"—

(a) in relation to a party registered under the [M1]Registration of Political Parties Act 1998, means the registered nominating officer or a member of the Assembly nominated by him for the purposes of this section;

(b) in relation to any other political party, means the person who appears to the Presiding Officer to be the leader of the party, or a member of the Assembly nominated by that person for the purposes of this section.

Modifications etc. (not altering text)
C7 S. 18(10) applied (12.2.2000) by 2000 c. 1, **s. 3(7)(a)**; S.I. 2000/396, **art. 2**

Marginal Citations
M1 1998 c. 48.

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)
C8 S. 19(3)(a) applied (12.2.2000) by 2000 c. 1, **s. 3(7)(b)**; S.I. 2000/396, **art. 2**

VALID FROM 30/11/2000

[F2 19A Disqualification for certain offices which may be held by members of the Assembly.

(1) No person may—
  (a) stand for election as First Minister or as deputy First Minister, or be elected as such,
  (b) be nominated to hold a Ministerial office,
  (c) be appointed as a junior Minister, or

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(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

(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

F2 S. 19A inserted (30.11.2000) by 2000 c. 42, **s. 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.

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.

(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.

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

VALID FROM 11/03/2009

[F3 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), (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.

(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.

(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), (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

F3 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**

VALID FROM 11/03/2009

[F4 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 and to make provision of the kind mentioned in section 21A(5A); 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.

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(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

F4 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)**

VALID FROM 11/03/2009

[F5 21C Section 21A(5A) and (7C): power of Assembly to secure retention or abolition of deputy Ministerial office

(1) This section applies if a new Northern Ireland department is established—
- (a) by an Act of the Assembly which makes provision of the kind mentioned in section 21A(5A); 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

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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

(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

F5 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)**

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