



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART VIII

#### MISCELLANEOUS

##### *Judicial scrutiny*

#### **79 Devolution issues.**

Schedule 10 (which makes provision in relation to devolution issues) shall have effect.

#### **Commencement Information**

- II** S. 79 wholly in force at 2.12.1999; s. 79 not in force at Royal Assent see s. 101(3); s. 79 in force for specified purposes at 1.3.1999 by S.I. 1999/340, art. 2(3), Sch. Pt. 3; s. 79 in force at 2.12.1999 insofar as not already in force by S.I. 1999/3209, art. 2, Sch.

#### **80 Legislative power to remedy ultra vires acts.**

- (1) The Secretary of State may by order make such provision as he considers necessary or expedient in consequence of—
- (a) any provision of an Act of the Assembly which is not, or may not be, within the legislative competence of the Assembly; or
  - (b) any purported exercise by a Minister or Northern Ireland department of his or its functions which is not, or may not be, a valid exercise of those functions.
- (2) An order under this section may—
- (a) make provision having retrospective effect;
  - (b) make consequential or supplementary provision, including provision amending or repealing any Northern Ireland legislation, or any instrument made under such legislation;
  - (c) make transitional or saving provision.

*Status: Point in time view as at 01/10/2009.*

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## 81 Powers of courts or tribunals to vary retrospective decisions.

- (1) This section applies where any court or tribunal decides that—
  - (a) any provision of an Act of the Assembly is not within the legislative competence of the Assembly; or
  - (b) a Minister or Northern Ireland department does not have the power to make, confirm or approve a provision of subordinate legislation that he or it has purported to make, confirm or approve.
- (2) The court or tribunal may make an order—
  - (a) removing or limiting any retrospective effect of the decision; or
  - (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.
- (3) In deciding whether to make an order under this section, the court or tribunal shall (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected.
- (4) Where a court or tribunal is considering whether to make an order under this section, it shall order notice of that fact to be given to—
  - (a) the Attorney General for Northern Ireland; and
  - (b) where the decision mentioned in subsection (1) relates to a devolution issue (within the meaning of Schedule 10), the appropriate authority,
 unless the person to whom the notice would be given is a party to the proceedings.
- (5) A person to whom notice is given under subsection (4) or, where such notice is given to the First Minister and the deputy First Minister, those Ministers acting jointly may take part as a party in the proceedings so far as they relate to the making of the order.
- (6) Paragraphs 37 and 38 of Schedule 10 apply with necessary modifications for the purposes of subsections (4) and (5) as they apply for the purposes of that Schedule.
- (7) In this section “the appropriate authority” means—
  - (a) in relation to proceedings in Northern Ireland, the First Minister and the deputy First Minister;
  - (b) in relation to proceedings in England and Wales, the Attorney General;
  - (c) in relation to proceedings in Scotland, the Lord Advocate and the Advocate General for Scotland.

## 82 The Judicial Committee.

F1 .....

### Textual Amendments

- F1** S. 82 repealed (1.10.2009) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 40, 146, 148, Sch. 9 para. 113, [Sch. 18 Pt. 5](#); S.I. 2009/1604, [art. 2\(f\)](#)

### Commencement Information

- I2** S. 82 wholly in force at 2.12.1999; s. 82 not in force at Royal Assent see [s. 101\(3\)](#); [s. 82\(3\)-\(5\)](#) in force at 1.3.1999 by [S.I. 1999/340](#), [art. 2\(3\)](#), [Sch. Pt. 3](#); [s. 82\(1\)\(2\)](#) in force at 2.12.1999 by [S.I. 1999/3209](#), [art. 2](#), [Sch.](#)

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### **83 Interpretation of Acts of the Assembly etc.**

- (1) This section applies where—
  - (a) any provision of an Act of the Assembly, or of a Bill for such an Act, could be read either—
    - (i) in such a way as to be within the legislative competence of the Assembly; or
    - (ii) in such a way as to be outside that competence; or
  - (b) any provision of subordinate legislation made, confirmed or approved, or purporting to be made, confirmed or approved, by a Northern Ireland authority could be read either—
    - (i) in such a way as not to be invalid by reason of section 24 or, as the case may be, section 76; or
    - (ii) in such a way as to be invalid by reason of that section.
- (2) The provision shall be read in the way which makes it within that competence or, as the case may be, does not make it invalid by reason of that section, and shall have effect accordingly.
- (3) In this section “Northern Ireland authority” means a Minister, a Northern Ireland department or a public authority (within the meaning of section 76) carrying out functions relating to Northern Ireland.

#### *Power to make provision by Order in Council*

### **84 Provision with respect to certain matters relating to Northern Ireland.**

- (1) Her Majesty may by Order in Council make provision with respect to elections (but not the franchise) and boundaries in respect of district councils in Northern Ireland.
- [<sup>F2</sup>(1A) The power in subsection (1) includes power to make provision with respect to polls at elections for district councillors when they are combined with polls at other elections.]
- (2) Her Majesty may by Order in Council make such amendments of the law of any part of the United Kingdom as appear to Her Majesty to be necessary or expedient in consequence of any provision made by or under—
  - (a) Northern Ireland legislation; or
  - (b) any Act of Parliament passed before this Act in so far as the provision is part of the law of Northern Ireland.
- (3) An Order in Council under subsection (1) or (2) may contain such consequential and supplemental provisions as appear to Her Majesty to be necessary or expedient.
- (4) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

#### **Textual Amendments**

**F2** S. 85(1A) inserted (10.4.2001) by 2001 c. 7, s. 3(4)

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

**C1** S. 84(1) extended (10.4.2001) by 2001 c. 7, s. 4, Sch. Pt. III para. 33

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**C2** S. 84(4) amended (16.2.2001) by 2000 c. 41, s. 7(3) (with s. 156(6)); S.I. 2001/222, art. 2, Sch. 1 Pt. 1

## **85 Provision dealing with certain reserved matters.**

- (1) Her Majesty may by Order in Council make provision dealing with any matter falling within a description specified in any of paragraphs 9 to 17 of Schedule 3 (a “relevant matter”), including—
  - (a) provision having retrospective effect;
  - (b) provision for the delegation of functions;
  - (c) provision amending or repealing any provision made by or under any Act of Parliament or Northern Ireland legislation.
- (2) An Order in Council under this section may—
  - (a) make provision ancillary to provisions (whether in the Order or previously enacted) which deal with any relevant matter;
  - (b) make such consequential, incidental, supplemental, or transitional provision as appears to Her Majesty to be necessary or expedient.
- (3) No recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.
- (4) No draft may be laid under subsection (3) unless—
  - (a) the Secretary of State has laid before Parliament a document which contains a draft of the proposed Order;
  - (b) the Secretary of State has referred the document to the Assembly for its consideration; and
  - (c) the period of 60 days beginning with the day on which the document was laid before Parliament has ended.
- (5) The Assembly may report to the Secretary of State the views expressed in the Assembly on the proposed Order and shall do so if the Secretary of State so requests.
- (6) The draft laid under subsection (3) must be accompanied—
  - (a) if representations have been made during the period mentioned in subsection (4), by a statement containing a summary of the representations;
  - (b) if a report has been made to the Secretary of State under subsection (5) during that period, by a copy of the report; and
  - (c) if, as a result of any representations or report so made, the proposed Order has been changed, by a statement containing details of the changes.
- (7) Subsection (3) does not apply to an Order in Council which declares that it has been made to appear to Her Majesty that by reason of urgency the Order requires to be made without a draft having been approved as mentioned in that subsection.
- (8) Where an Order in Council contains a declaration such as is mentioned in subsection (7)—
  - (a) the Order shall be laid before Parliament after being made; and
  - (b) if at the end of the period of 40 days after the date on which the Order is made it has not been approved by resolution of each House, it shall then cease to have effect (but without prejudice to anything previously done under it or to the making of a new Order).

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- (9) In reckoning the periods mentioned in subsections (4) and (8), no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- (10) References to Acts of the Assembly in any enactment or instrument shall, so far as the context permits, be deemed to include references to Orders in Council under this section.
- (11) Orders in Council under this section may be omitted from any annual edition of statutory instruments made by virtue of section 8 of the <sup>M1</sup>Statutory Instruments Act 1946.
- (12) In this section “representations” means representations about a proposed Order in Council under this section made to the Secretary of State and includes—
- (a) any relevant resolution of either House of Parliament or of the Assembly; and
  - (b) any relevant report or resolution of any committee of either House of Parliament or of the Assembly.

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

C3 S. 85(3)-(8) excluded (N.I.) (27.7.1999) by 1999 c. 23, ss. 66(1)

**Marginal Citations**

M1 1946 c.36.

**86 Provision for purposes consequential on Act etc.**

- (1) Her Majesty may by Order in Council make such provision, including provision amending the law of any part of the United Kingdom, as appears to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, this Act or any Order under section 4 or 6.
- (2) Orders under subsection (1) may make provision for transferring to a United Kingdom authority, with effect from any date specified in the Order—
- (a) any functions which immediately before that date are exercisable by a Northern Ireland authority and appear to Her Majesty to be concerned with a matter which is an excepted or reserved matter [<sup>F3</sup>other than by virtue of an Order under section 4];
  - (b) any functions which immediately before that date are exercisable by a Northern Ireland authority and appear to Her Majesty not to be exercisable in or as regards Northern Ireland by virtue of an Order under section 6.
- (3) Orders under subsection (1) may make provision for transferring to a Northern Ireland authority, with effect from any date specified in the Order—
- (a) any functions which immediately before that date are exercisable by a United Kingdom authority and appear to Her Majesty to be concerned with a matter which is a transferred matter [<sup>F3</sup>other than by virtue of an Order under section 4];
  - (b) any functions which immediately before that date are exercisable by a United Kingdom authority and appear to Her Majesty to be exercisable in or as regards Northern Ireland by virtue of an Order under section 6.

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- [<sup>F4</sup>(3A) An Order under subsection (1) in relation to an Order under section 4 may make provision doing any of the following—
- (a) transferring to a United Kingdom authority, with effect from any date specified in the Order under subsection (1), any function which immediately before that date is exercisable by a Northern Ireland authority;
  - (b) transferring to a Northern Ireland authority, with effect from any date specified in the Order under subsection (1), any function which immediately before that date is exercisable by a United Kingdom authority;
  - (c) conferring a function on a United Kingdom authority or a Northern Ireland authority;
  - (d) removing a function from a United Kingdom authority or a Northern Ireland authority.]
- (4) An Order under subsection (1) may make provision, to such extent as may appear to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, this Act or any Order under section 4 or 6—
- (a) for transferring or apportioning any property, rights or liabilities;
  - (b) for substituting any authority for any other authority in any charter, contract or other document or in any legal proceedings;
  - (c) for any other transitional or consequential matter.
- (5) Where such provision as is mentioned in subsection (3)(b) has been made by Order in Council under subsection (1), Her Majesty may, if it appears to Her necessary or expedient to do so, by Order in Council—
- (a) provide that the functions transferred to the Northern Ireland authority shall be exercisable by a United Kingdom authority, either alone or concurrently with the Northern Ireland authority; and
  - (b) make such provision as is mentioned in subsection (4)(a) to (c).
- (6) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (7) In this section “Northern Ireland authority” means—
- (a) a Minister or a Northern Ireland department;
  - (b) the Comptroller and Auditor General for Northern Ireland; or
  - (c) any other public body or holder of public office in Northern Ireland.
- (8) In this section “United Kingdom authority” means—
- (a) the Privy Council;
  - (b) any Minister of the Crown;
  - (c) the Defence Council;
  - (d) the Commissioners of Inland Revenue;
  - (e) the Commissioners of Customs and Excise;
  - (f) the Comptroller and Auditor General; or
  - (g) any other public body or holder of public office in the United Kingdom.

#### Textual Amendments

**F3** Words in s. 86(2)(a)(3)(a) substituted (12.3.2009) by [Northern Ireland Act 2009 \(c. 3\)](#), ss. 4(2), 5

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**F4** S. 86(3A) inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 4(3), 5

**[<sup>F5</sup>86A Provision for transfer of functions relating to extradition etc.**

- (1) Her Majesty may by Order in Council make provision amending—
  - (a) the Crime (International Co-operation) Act 2003; or
  - (b) the Extradition Act 2003,for the purpose of transferring to a Minister or a Northern Ireland department, with effect from any date specified in the Order, any relevant function under the Act.
- (2) In subsection (1) “relevant function” means a function which, immediately before the date specified in the Order,—
  - (a) is exercisable by a Minister of the Crown; and
  - (b) is exercisable in relation to Northern Ireland.
- (3) An Order under subsection (1) may make provision, to such extent as may appear to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, the Order—
  - (a) for transferring or apportioning any property, rights or liabilities;
  - (b) for substituting any body or person for any other body or person in any charter, contract or other document or in any legal proceedings;
  - (c) for any other transitional or consequential matter.
- (4) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

**Textual Amendments**

**F5** S. 86A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 19, 31; S.I. 2009/448, art. 2

**[<sup>F6</sup>86B Provision for entrenching enactments**

- (1) Her Majesty may by Order in Council make provision amending section 7 so as to provide for—
  - (a) enactments to become entrenched; or
  - (b) enactments that are entrenched by virtue of an Order under paragraph (a) to cease to be entrenched.
- (2) For the purposes of this section an enactment is entrenched if section 7 prevents it from being modified by an Act of the Assembly or subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department.
- (3) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.]



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### Textual Amendments

- F6** S. 86B inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 20, 31; S.I. 2009/448, art. 2

### *Social security, child support and pensions*

#### **87 Consultation and co-ordination.**

- (1) The Secretary of State and the Northern Ireland Minister having responsibility for social security (“the Northern Ireland Minister”) shall from time to time consult one another with a view to securing that, to the extent agreed between them, the legislation to which this section applies provides single systems of social security, child support and pensions for the United Kingdom.
- (2) Without prejudice to section 28, the Secretary of State with the consent of the Treasury, and the Northern Ireland Minister with the consent of the Department of Finance and Personnel, may make—
  - (a) arrangements for co-ordinating the operation of the legislation to which this section applies with a view to securing that, to the extent allowed for in the arrangements, it provides single systems of social security, child support and pensions for the United Kingdom; and
  - (b) reciprocal arrangements for co-ordinating the operation of so much of the legislation as operates differently in relation to Great Britain and in relation to Northern Ireland.
- (3) Such arrangements as are mentioned in subsection (2)(a) or (b) may include provision for making any necessary financial adjustments, other than adjustments between the National Insurance Fund and the Northern Ireland National Insurance Fund.
- (4) The Secretary of State may make regulations for giving effect to arrangements under subsection (2); and any such regulations may for the purposes of the arrangements provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Great Britain;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the enactments in force in Northern Ireland have a corresponding effect in relation to Great Britain (but not so as to confer any double benefit); and
  - (c) for determining, in cases where rights accrue both in relation to Great Britain and in relation to Northern Ireland, which of those rights shall be available to the person concerned.
- (5) The Northern Ireland department having responsibility for social security may make regulations for giving effect to arrangements under subsection (2); and any such regulations may for the purposes of the arrangements provide—
  - (a) for adapting legislation (including subordinate legislation) for the time being in force in Northern Ireland;
  - (b) without prejudice to paragraph (a) above, for securing that acts, omissions and events having any effect for the purposes of the enactments in force in Great



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Britain have a corresponding effect in relation to Northern Ireland (but not so as to confer any double benefit); and

- (c) for determining, in cases where rights accrue both in relation to Northern Ireland and in relation to Great Britain, which of those rights shall be available to the person concerned.

(6) This section applies to—

- (a) the <sup>M2</sup>Social Security Contributions and Benefits Act 1992 and the <sup>M3</sup>Social Security Contributions and Benefits (Northern Ireland) Act 1992;
- (b) the <sup>M4</sup>Social Security Administration Act 1992 and the <sup>M5</sup>Social Security Administration (Northern Ireland) Act 1992;
- (c) the <sup>M6</sup>Child Support Act 1991 and the <sup>M7</sup>Child Support (Northern Ireland) Order 1991;
- (d) the <sup>M8</sup>Social Security Pensions Act 1975 and the <sup>M9</sup>Social Security Pensions (Northern Ireland) Order 1975;
- (e) the <sup>M10</sup>Social Security Act 1989 and the <sup>M11</sup>Social Security (Northern Ireland) Order 1989;
- (f) the <sup>M12</sup>Disability (Grants) Act 1993;
- (g) the <sup>M13</sup>Pension Schemes Act 1993 and the <sup>M14</sup>Pensions Schemes (Northern Ireland) Act 1993;
- (h) the <sup>M15</sup>Social Security (Incapacity for Work) Act 1994 and the <sup>M16</sup>Social Security (Incapacity for Work) (Northern Ireland) Order 1994;
- (i) the <sup>M17</sup>Jobseekers Act 1995 and the <sup>M18</sup>Jobseekers (Northern Ireland) Order 1995;
- (j) the <sup>M19</sup>Pensions Act 1995 and the <sup>M20</sup>Pensions (Northern Ireland) Order 1995;
- (k) the <sup>M21</sup>Child Support Act 1995 and the <sup>M22</sup>Child Support (Northern Ireland) Order 1995;
- (l) the <sup>M23</sup>Social Security (Recovery of Benefits) Act 1997 and the <sup>M24</sup>Social Security (Recovery of Benefits) (Northern Ireland) Order 1997;
- (m) the <sup>M25</sup>Social Security Act 1998 and the <sup>M26</sup>Social Security (Northern Ireland) Order 1998.
- [<sup>F7</sup>(n) the Welfare Reform and Pensions Act 1999 and the Welfare Reform and Pensions (Northern Ireland) Order 1999]

[<sup>F8</sup>(o) the Child Support, Pensions and Social Security Act 2000 and the Child Support, Pensions and Social Security Act (Northern Ireland) 2000]

[<sup>F9</sup>(p) the Social Security Fraud Act 2001 and the Social Security Fraud Act (Northern Ireland) 2001

[ the State Pension Credit Act 2002 and the State Pension Credit Act (Northern Ireland) 2002]

[ the Age-Related Payments Act 2004 and the Age-Related Payments (Northern Ireland) Order 2004;

(s) the Pensions Act 2004 and the Pensions (Northern Ireland) Order 2005]

[ the Welfare Reform Act 2007 and the Welfare Reform Act (Northern Ireland) 2007;

(u) the Pensions Act 2007 and the Pensions Act (Northern Ireland) 2008]]

[<sup>F13</sup>(v) the Child Maintenance and Other Payments Act 2008, the Mesothelioma, etc., Act (Northern Ireland) 2008, and the Child Maintenance Act (Northern Ireland) 2008;

(w) the Pensions Act 2008 and the Pensions (No. 2) Act (Northern Ireland) 2008.]

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[<sup>F14</sup>(6A) But this section does not apply to the legislation referred to in subsection (6) to the extent that it relates to child benefit or guardian’s allowance.]

(7) Her Majesty may by Order in Council make any modifications of subsection (6) which She considers necessary or expedient.

(8) The following provisions (which are superseded by this section and section 88) shall cease to have effect—

- (a) sections 177 and 178 of the Social Security Administration Act 1992 (co-ordination and reciprocity with Northern Ireland);
- (b) sections 153 and 154 of the Social Security Administration (Northern Ireland) Act 1992 (co-ordination and reciprocity with Great Britain);
- (c) section 56(2) to (4) of the Child Support Act 1991 (co-ordination with Northern Ireland);
- (d) Article 49(2) and (3) of the Child Support (Northern Ireland) Order 1991 (co-ordination with Great Britain);
- (e) section 29(2) to (4) of the Child Support Act 1995 (co-ordination with Northern Ireland);
- (f) Article 20 of the Child Support (Northern Ireland) Order 1995 (co-ordination with Great Britain).

(9) Section 189 of the <sup>M27</sup>Social Security Administration Act 1992 (regulations and orders: general) shall apply in relation to the power conferred by subsection (4) as it applied in relation to the power conferred by section 177(4) of that Act.

(10) The power conferred by subsection (5) shall be construed as if it had been conferred by an Act of the Assembly; and section 165 of the <sup>M28</sup>Social Security Administration (Northern Ireland) Act 1992 (regulations and orders: general) shall apply in relation to that power as it applied in relation to the power conferred by section 153(3) of that Act.

(11) A statutory instrument containing an Order in Council under subsection (7) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F7** S. 87(6)(n) added (13.4.2000) by [S.I. 2000/741](#), **art. 2**
- F8** S. 87(6)(o) added (4.1.2001) by [S.I. 2000/3254](#), **art. 2**
- F9** S. 87(6)(p) added (15.3.2002) by [S.I. 2002/265](#), **art. 2**
- F10** S. 87(6)(q) inserted (19.8.2003) by [The Northern Ireland Act 1998 \(Modification\) Order 2003 \(S.I. 2003/1890\)](#), **art. 2**
- F11** S. 87(6)(r)(s) inserted (15.11.2006) by [The Northern Ireland Act 1998 \(Modification\) Order 2006 \(S.I. 2006/2659\)](#), **art. 2**
- F12** S. 87(6)(t)(u) inserted (18.6.2008) by [The Northern Ireland Act 1998 \(Modification\) Order 2008 \(S.I. 2008/1242\)](#), {art. 2}
- F13** S. 87(6)(v)(w) inserted (20.5.2009) by [The Northern Ireland Act 1998 \(Modification\) Order 2009 \(S.I. 2009/885\)](#), **art. 2**
- F14** S. 87(6A) inserted (8.7.2002) by [2002 c. 21](#), **s. 64(3)(4)**

#### Marginal Citations

- M2** 1992 c.4.
- M3** 1992 c.7.
- M4** 1992 c.5.

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<b>M5</b>	1992 c.8.
<b>M6</b>	1991 c.48.
<b>M7</b>	S.I. 1991/2628 (N.I.23).
<b>M8</b>	1975 c.60.
<b>M9</b>	S.I. 1975/1503 (N.I.16).
<b>M10</b>	1989 c.24.
<b>M11</b>	S.I. 1989/1342 (N.I.13).
<b>M12</b>	1993 c.14.
<b>M13</b>	1993 c.48.
<b>M14</b>	1993 c.49.
<b>M15</b>	1994 c.18.
<b>M16</b>	S.I. 1994/1898 (N.I.12).
<b>M17</b>	1995 c.18.
<b>M18</b>	S.I. 1995/2705 (N.I.15).
<b>M19</b>	1995 c.26.
<b>M20</b>	S.I. 1995/3213 (N.I.22).
<b>M21</b>	1995 c.34.
<b>M22</b>	S.I. 1995/2702 (N.I.13).
<b>M23</b>	1997 c.27.
<b>M24</b>	S.I. 1997/1183 (N.I.12)
<b>M25</b>	1998 c.14.
<b>M26</b>	S.I. 1998/1506 (N.I.10).
<b>M27</b>	1992 c.5.
<b>M28</b>	1992 c.8.

## **88 The Joint Authority.**

- (1) The Joint Authority continued in being by section 177(2) of the Social Security Administration Act 1992—
  - (a) shall consist of the Secretary of State, the Northern Ireland Minister having responsibility for social security and the Chancellor of the Exchequer; and
  - (b) shall continue in being by the name of the Social Security, Child Support and Pensions Joint Authority for the purposes of the legislation to which section 87 applies.
- (2) The responsibility of the Joint Authority shall include that of giving effect to arrangements under section 87(2), with power to discharge such functions as may be provided under the arrangements.
- (3) The Joint Authority shall also have <sup>F15</sup>power—
  - (a) to require the making by the Commissioners of Inland Revenue of any necessary adjustments between the National Insurance Fund and the Northern Ireland National Insurance Fund, and
  - (b) to make any other necessary financial adjustments.]
- (4) The Joint Authority shall continue—
  - (a) to be a body corporate; and
  - (b) to have an official seal which shall be officially and judicially noticed; and the seal of the Authority may be authenticated by any member of, or the secretary to, the Authority, or by any person authorised by the Authority to act on behalf of the secretary.

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- (5) Any member of the Joint Authority shall be entitled, subject to and in accordance with any rules laid down by the Authority, to appoint a deputy to act for him at meetings of the Authority.
- (6) The <sup>M29</sup>Documentary Evidence Act 1868 shall apply to the Joint Authority as if the Authority were included in the first column of the Schedule to that Act and—
- (a) as if any member or the secretary, or any person authorised to act on behalf of the secretary, of the Authority were mentioned in the second column of that Schedule; and
  - (b) as if the regulations referred to in that Act included any document issued by the Authority.

#### Textual Amendments

**F15** Words in s. 88(3) substituted (1.4.1999) by 1999 c. 2, s. 2, **Sch. 3 para. 65**; S.I. 1999/527, art. 2(b), **Sch. 2**

#### Marginal Citations

**M29** 1868 c.37.

## 89 Industrial Injuries Advisory Council.

- (1) For subsection (1) of section 149 of the Social Security Administration (Northern Ireland) Act 1992 (Social Security Advisory Committee) substitute—

“(1) The Department may from time to time—

- (a) refer to the Social Security Advisory Committee for consideration and advice such questions relating to the operation of any of the relevant enactments as the Department thinks fit (including questions as to the advisability of amending any of them);
- (b) refer to the Industrial Injuries Advisory Council for consideration and advice such questions as the Department thinks fit relating to industrial injuries benefit or its administration.”

- (2) After subsection (2) of that section insert—

“(2A) Subject—

- (a) to subsection (3) below; and
- (b) to section 150 below,

where the Department proposes to make regulations relating only to industrial injuries benefit or its administration, it shall refer the proposals, in the form of draft regulations or otherwise, to the Industrial Injuries Advisory Council for consideration and advice.”

- (3) At the end of subsection (3) of that section insert “; and subsection (2A) above does not apply to the regulations specified in Schedule 5A to this Act”.

- (4) After that subsection insert—

“(3A) The Industrial Injuries Advisory Council may also give advice to the Department on any other matter relating to industrial injuries benefit or its administration.”

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

- (5) In subsections (1), (2) and (5) of section 150 of that Act (cases in which consultation not required), after “the Committee”, in each place, insert “ or the Council ”.
- (6) In subsection (3) of that section—
- (a) after “the Committee”, in the first place, insert “ or the Council ”; and
  - (b) after “the Committee has made its report” insert “ or, as the case may be, the Council has given its advice ”.
- (7) In subsection (6) of that section, after the definition of “the Committee” insert—
- ““the Council” means the Industrial Injuries Advisory Council;”.
- (8) After Schedule 5 to that Act insert—

#### “SCHEDULE 5A

##### REGULATIONS NOT REQUIRING PRIOR SUBMISSION TO INDUSTRIAL INJURIES ADVISORY COUNCIL

- 1 Regulations under section 120(1)(b) of the Contributions and Benefits Act.
  - 2 Regulations which state that they contain only provisions in consequence of an order under section 129 or 132 above.
  - 3 Regulations made within a period of 6 months from the passing of any Act passed after this Act and directed to be construed as one with this Act, where—
    - (a) the regulations state that they contain only regulations to make provision consequential on the passing of the Act; and
    - (b) the Act does not exclude this paragraph in respect of the regulations; and in this paragraph “Act” includes an Act of the Northern Ireland Assembly.
  - 4 Regulations which state that they contain only regulations making with respect to industrial injuries benefit or its administration the same or substantially the same provision as has been, or is to be, made with respect to other benefit as defined in section 121(1) of the Contributions and Benefits Act or its administration.
  - 5 Regulations which state that the only provision with respect to industrial injuries benefit or its administration that is made by the regulations is the same or substantially the same as provision made by the instrument with respect to other benefit as defined in section 121(1) of the Contributions and Benefits Act or its administration.
  - 6 Regulations made for the purpose only of consolidating other regulations revoked by them.
  - 7 Regulations making only provision corresponding to provision contained in regulations made by the Secretary of State or the Lord Chancellor in relation to Great Britain.”
- (9) In section 192(5) of the <sup>M30</sup>Social Security Administration Act 1992, after the entry relating to section 170 (with Schedule 5) insert— “ section 171 (with Schedule 6); ”.

#### Marginal Citations

M30 1992 c.5.

*Status: Point in time view as at 01/10/2009.*

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

*Discrimination: certificates by Secretary of State*

**90 Effect of certificates.**

- (1) This section applies where in any proceedings—
  - (a) a person claims that an act discriminated against him in contravention of section 24 or 76; and
  - (b) the person against whom the claim is made proposes to rely on a certificate purporting to be signed by or on behalf of the Secretary of State and certifying—
    - (i) that an act specified in the certificate was done for the purpose of safeguarding national security or protecting public safety or public order; and
    - (ii) that the doing of the act was justified by that purpose.
- (2) The claimant may, in accordance with rules [<sup>F16</sup>made under section 91], appeal against the certificate to the Tribunal, that is to say, the tribunal established under section 91.
- (3) If on an appeal under subsection (2) the Tribunal determines—
  - (a) that the act specified in the certificate was done for the certified purpose; and
  - (b) that the doing of the act was justified by that purpose,
 the Tribunal shall uphold the certificate; in any other case, the Tribunal shall quash the certificate.
- (4) If—
  - (a) the claimant does not appeal against the certificate; or
  - (b) the certificate is upheld on appeal,
 the certificate shall be conclusive evidence of the matters certified by it.
- (5) In this section “act” does not include the making, confirmation or approval of a provision of subordinate legislation.

**Textual Amendments**

**F16** Words in s. 90(2) substituted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\), ss. 15, 148, Sch. 5 para. 105](#); S.I. 2006/1014, [art. 2\(a\)](#), Sch. 1 para. 12(b)

**91 The Tribunal.**

- (1) There shall be a tribunal in relation to which Schedule 11 shall have effect.
  - (2) The Lord Chancellor may [<sup>F17</sup>, after consultation with the Lord Chief Justice of Northern Ireland,] make rules—
    - (a) for regulating the exercise of rights of appeal to the Tribunal;
    - (b) for prescribing the practice and procedure to be followed on or in connection with appeals to the Tribunal, including the mode and burden of proof and admissibility of evidence on such appeals; and
    - (c) for other matters preliminary or incidental to or arising out of such appeals.
- [<sup>F18</sup>(2A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (2)—

*Status: Point in time view as at 01/10/2009.*

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

- (a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - (b) a Lord Justice of Appeal (as defined in section 88 of that Act).]
- (3) Rules under this section may provide that—
- (a) a party to any proceedings before the Tribunal on an appeal; and
  - (b) where the Secretary of State is not party to any such proceedings, the Secretary of State,
- has the right to be legally represented in the proceedings, subject to any power conferred on the Tribunal by such rules.
- (4) Rules under this section may, in particular—
- (a) make provision enabling proceedings before the Tribunal to take place without a party being given full particulars of the reasons for the issue of the certificate which is the subject of the appeal;
  - (b) make provision enabling the Tribunal to hold proceedings in the absence of any person, including a party and any legal representative appointed by a party;
  - (c) make provision about the functions in proceedings before the Tribunal of persons appointed under subsection (7); and
  - (d) make provision enabling the Tribunal to give a party a summary of any evidence taken in his absence.
- (5) Rules under this section may also include provision—
- (a) enabling any functions of the Tribunal which relate to matters preliminary or incidental to an appeal to be performed by a single member of the Tribunal; or
  - (b) conferring on the Tribunal such ancillary powers as the Lord Chancellor thinks necessary for the purposes of the exercise of its functions.
- (6) In making rules under this section, the Lord Chancellor shall have regard, in particular, to—
- (a) the need to secure that certificates which are the subject of appeals are properly reviewed; and
  - (b) the need to secure that information is not disclosed contrary to the public interest.
- (7) The Attorney General for Northern Ireland may appoint a person to represent the interests of a party to proceedings before the Tribunal in any proceedings from which he and any legal representative of his are excluded.
- (8) A person appointed under subsection (7)—
- (a) shall be a member of the Bar of Northern Ireland;
  - (b) shall not be responsible to the party whose interests he represents.
- (9) In this section and section 92 “party”, in relation to proceedings on appeal, means the appellant or the person proposing to rely on the certificate which is the subject of the appeal.

#### Textual Amendments

**F17** Words in s. 91(2) inserted (3.4.2006) by [Constitutional Reform Act 2005 \(c. 4\)](#), ss. 15, 148, [Sch. 5 para. 106\(2\)](#); [S.I. 2006/1014](#), [art. 2\(a\)](#), [Sch. 1 para. 12\(b\)](#)



*Status: Point in time view as at 01/10/2009.*

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

**F18** S. 91(2A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 106(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(b)

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

- C4** S. 91 applied (16.8.1999) by S.I. 1998/3162 (N.I. 21), **arts. 80(5)**, 96, 98; S.R. 1999/355, **art. 2(a)**
- C5** S. 91 applied (N.I.) (1.10.2006) by The Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006/261), **reg. 30(5)** (with reg. 50)
- C6** S. 91 applied (N.I.) (1.1.2007) by The Equality Act (Sexual Orientation) Regulations (Northern Ireland) 2006 (S.R. 2006/439), **reg. 51(5)** (with regs. 5(4), 16(3)(4), 26, 53)

#### Commencement Information

- I3** S. 91 wholly in force at 2.8.1999; s. 91 not in force at Royal Assent see s. 101(3); s. 91(1) in force for specified purposes at 15.2.1999 and s. 91(2)-(6) in force at 1.3.1999 by S.I. 1999/340, **art. 2(2)(3)**, Sch. Pts. 2, 3; s. 91 in force at 2.8.1999 insofar as not already in force by S.I. 1999/2204, **art. 5**

## 92 Appeals from the Tribunal.

- (1) Where the Tribunal has determined an appeal under section 90—
- any party to the appeal; or
  - where the Secretary of State was not a party to the appeal, the Secretary of State,
- may bring a further appeal to the Court of Appeal in Northern Ireland on any question of law material to the Tribunal's determination.
- (2) An appeal under this section may be brought only with the leave of the Tribunal or, if such leave is refused, with the leave of the Court of Appeal in Northern Ireland.
- (3) The Lord Chancellor may [<sup>F19</sup>, after consultation with the Lord Chief Justice of Northern Ireland,] make rules regulating, and prescribing the procedure to be followed on, applications to the Tribunal for leave to appeal under this section.
- [<sup>F20</sup>(3A) The Lord Chief Justice may nominate any of the following to exercise his functions under subsection (3)—
- the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002;
  - a Lord Justice of Appeal (as defined in section 88 of that Act).]
- (4) Rules under this section may include provision enabling an application for leave to appeal to be heard by a single member of the Tribunal.

#### Textual Amendments

- F19** Words in s. 92(3) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 107(2)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(b)
- F20** S. 92(3A) inserted (3.4.2006) by Constitutional Reform Act 2005 (c. 4), ss. 15, 148, **Sch. 5 para. 107(3)**; S.I. 2006/1014, **art. 2(a)**, Sch. 1 para. 12(b)

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

- C7** S. 92 applied (1.3.1999) by S.I. 1998/3162 (N.I. 21), **arts. 80(5)**, 96, 98; S.R. 1999/81, **art. 3(1)**
- C8** S. 92 applied (N.I.) (1.10.2006) by The Employment Equality (Age) Regulations (Northern Ireland) 2006 (S.R. 2006/261), **reg. 30(5)** (with reg. 50)

*Status: Point in time view as at 01/10/2009.*

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

**C9** S. 92 applied (N.I.) (1.1.2007) by [The Equality Act \(Sexual Orientation\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/439\)](#), **reg. 51(5)** (with regs. 5(4), 16(3)(4), 26, 53)

#### **Commencement Information**

**I4** S. 92 wholly in force at 2.8.1999; s. 92 not in force at Royal Assent see s. 101(3); s. 92(3)(4) in force at 1.3.1999 by [S.I. 1999/340](#), art. 2(3), **Sch. Pt. 3**; s. 92 in force at 2.8.1999 insofar as not already in force by [S.I. 1999/2204](#), **art. 5**

### *Miscellaneous*

#### **93 Parliament Buildings etc.**

- (1) Subject to subsection (2), property in relation to which section 31(4) of the <sup>M31</sup>Northern Ireland Constitution Act 1973 had effect (property held in trust for Parliament of Northern Ireland etc.) shall on and after the commencement of this section be applied for the purposes of the Assembly or such other purposes as the Department of the Environment (“the Department”) may determine.
- (2) The Secretary of State may require the Department to make available to him in any premises comprised in the property mentioned in subsection (1) (other than the Parliament Buildings at Stormont) such accommodation and facilities as he may specify.
- (3) The Secretary of State shall in consideration of the use of any such accommodation and facilities make to the Department such payments out of money provided by Parliament as he and the Department may agree.
- (4) In so far as any of the property mentioned in subsection (1) was not immediately before the commencement of this section vested in the Department it shall vest in the Department at that commencement; and subsections (1) and (2) shall have effect notwithstanding anything in any deed or other instrument relating to the property to which those subsections apply.

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

**C10** S. 93: transfer of certain functions (1.12.1999) by [S.R. 1999/481](#), arts. 1, 6, **Sch. 4 Pt. II**

**C11** S. 93(2) restricted (N.I.) (9.3.2006) by [The Stormont Estate \(Northern Ireland\) Order 2006 \(S.I. 2006/612\)](#), **art. 3(4)**

#### **Marginal Citations**

**M31** 1973 c.36.

#### **94 Land purchase annuities etc.**

- (1) Subject to subsection (2), land purchase annuities shall be collected by the Department of Agriculture and paid into the Consolidated Fund of Northern Ireland.
- (2) A land purchase annuity may be extinguished by, or redeemed with the agreement of, the Department of Agriculture.
- (3) The Irish Land Purchase Fund shall be wound up and the money standing to its credit shall be paid into the Consolidated Fund of the United Kingdom.

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

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- (4) In this section “land purchase annuities” means annuities for the repayment of advances made under any enactment relating to land purchase in Northern Ireland.

**Status:**

Point in time view as at 01/10/2009.

**Changes to legislation:**

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