

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Part 1A. (See end of Document for details)*

## SCHEDULES

### [<sup>F1</sup>SCHEDULE 4A

#### DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

##### Textual Amendments

- F1** Sch. 4A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 17, 31, **Sch. 2** (as amended (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 9, 27, Sch. 5 paras. 8-14, Sch. 6 (with s. 1(3)); S.I. 2007/1397, art. 2 (which amending Act was itself amended (27.3.2007) by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) and as amended (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44, 53, Sch. 5 paras. 2, 3; S.I. 2009/446, art. 3); S.I. 2009/448, **art. 2**

### [<sup>F2</sup>PART 1A

#### DEPARTMENT IN THE CHARGE OF MINISTER APPROVED BY RESOLUTION OF THE ASSEMBLY BY VIRTUE OF SECTION 21A(3A)

##### Textual Amendments

- F2** Sch. 4A Pt. 1A inserted (12.3.2009) by Northern Ireland Act 2009 (c. 3), ss. 1, 5, **Sch. 1 para. 4(3)**

#### Introduction

- 3A (1) This Part of this Schedule has effect in relation to a Northern Ireland department—
- (a) the functions of which consist wholly or mainly of devolved policing and justice functions, and
  - (b) in relation to which an Act of the Assembly provides, by virtue of section 21A(3A), for it to be in the charge of a Northern Ireland Minister (the “relevant Minister”) appointed by virtue of a nomination—
    - (i) made by one or more members of the Assembly, and
    - (ii) 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.
- (2) In this paragraph “devolved policing and justice function” has the same meaning as in section 21A (see subsection (8) of that section).

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*Modification of section 16A*

- [<sup>F3</sup>3B Section 16A(3) has effect as if, for paragraph (b) (and the word “and” before it) there were substituted—
- “(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 1A of Schedule 4A) shall be filled by applying paragraph 3D(4) to (8) of that Schedule; and
  - (b) once that office has been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).”]

**Textual Amendments**

- F3** Sch. 4A para. 3B substituted (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\), ss. 8\(2\), 28\(7\); S.I. 2014/2613, art. 2\(1\)\(a\)](#)

*Section 18 not to apply to relevant Minister*

- 3C [ Section 18 (Northern Ireland Ministers) shall not apply in relation to—
- <sup>F4</sup>(1)] (a) the relevant Minister, or
- (b) the Ministerial office held by the relevant Minister (the “relevant Ministerial office”),
- and paragraph 3D shall apply instead.

[ But the reference to Ministerial offices in subsection (5) of that section (in the <sup>F5</sup>(2) definition of M) shall be taken to include the relevant Ministerial office.]

**Textual Amendments**

- F4** Sch. 4A para. 3C renumbered as Sch. 4A para. 3C(1) (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\), ss. 8\(3\)\(a\), 28\(7\); S.I. 2014/2613, art. 2\(1\)\(a\)](#)
- F5** Sch. 4A para. 3C(2) inserted (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\), ss. 8\(3\)\(b\), 28\(7\); S.I. 2014/2613, art. 2\(1\)\(a\)](#)

*Provisions relating to relevant Minister*

- 3D [ Where—
- <sup>F6</sup>(A1) (a) an Assembly is elected—
- (i) at a poll the date for which is proposed under section 32(3B), or
  - (ii) following the issue of a certificate under section 18(A2),
- (b) the period of 24 weeks beginning with the day on which an Assembly first meets expires without the offices mentioned in section 16A(3) having been filled, or
- (c) the period of 48 weeks beginning with the day on which a vacancy arises in the offices of First Minister and deputy First Minister expires without those offices having been filled,
- the relevant Minister shall cease to hold office (and the relevant Ministerial office shall remain vacant until next filled by virtue of section 16A).]

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- (1) Where any of the following conditions is satisfied—
  - (a) the relevant Minister shall (if holding office at the time) cease to hold office, and
  - (b) the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) within a period specified in standing orders.
- (2) The conditions are—
  - (a) a determination under section 17(1) takes effect;
  - (b) a resolution which causes the relevant Ministerial office to become vacant is passed under section 30(2);
  - <sup>F7</sup>(c) .....
  - (d) a period of exclusion under section 30(2) <sup>F8</sup>... comes to an end <sup>F8</sup>...;
  - (e) such other circumstances obtain as may be specified in standing orders for the purposes of section 18(1)(e) but only so far as standing orders provide for those circumstances to be applicable for the purposes of this sub-paragraph.
- (3) If relevant, the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) after [<sup>F9</sup>section 16B(3) to (7) is applied in relation to the offices of First Minister and deputy First Minister but before] section 18(2) to (6) is applied in relation to the other Ministerial offices.
- (4) One or more members of the Assembly may nominate another member of the Assembly to hold the relevant Ministerial office.

[ But a member of the Assembly who is a member of a political party may not be

<sup>F10</sup>(4A) nominated unless the nominating officer of the party consents to the nomination within a period specified in standing orders.]
- (5) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with 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.
- (6) Once one member has been nominated, no further nominations may be made unless and until sub-paragraph (7) applies.
- (7) If—
  - (a) the nomination does not take effect within a period specified in standing orders, or
  - (b) the nominated person does not take up the office for which the person has been nominated within that period,a further nomination of a member of the Assembly may be made under sub-paragraph (4).
- (8) Sub-paragraphs (4) to (7) shall be applied as many times as may be necessary to secure that the relevant Ministerial office is filled.
- (9) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold the relevant Ministerial office.
- (10) The relevant Minister shall not take up office until the Minister has affirmed the terms of the pledge of office.

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- (11) The relevant Minister shall cease to hold office if—
- (a) the Minister resigns by notice in writing to the First Minister and the deputy First Minister,
    - [ there is an Assembly election at which the Minister is not returned as a member,]<sup>F11(aa)</sup>
  - (b) the Minister ceases to be a member of the Assembly otherwise than by virtue of a dissolution,<sup>F12</sup> ...
    - [ where consent to the Minister's nomination was required under sub-paragraph (4A), the Minister is dismissed by the nominating officer of the party and the Presiding Officer is notified of the dismissal, or]<sup>F13(ba)</sup>
  - (c) [<sup>F14</sup>where consent to the Minister's nomination was not required under sub-paragraph (4A),] the Assembly resolves that the Minister is to cease to hold office.
- (12) A resolution for the purposes of sub-paragraph (11)(c) must be passed with 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.
- (13) A motion for a resolution for the purposes of sub-paragraph (11)(c) shall not be moved unless—
- (a) it is supported by at least 30 members of the Assembly, or
  - (b) it is moved by the First Minister and the deputy First Minister acting jointly.
- (14) If the relevant Minister ceases to hold office at any time, otherwise than by virtue of sub-paragraph [<sup>F15</sup>(A1) or] (1), the relevant Ministerial office shall be filled by applying sub-paragraphs (4) to (8) within a period specified in standing orders.
- (15) 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 under that provision has not come to an end, no member of that party may be nominated under sub-paragraph (4).
- <sup>F16</sup>(16) .....
- (17) In this paragraph, a reference to a period of exclusion<sup>F17</sup> ... is, in the case of a period of exclusion<sup>F17</sup> ... which has been extended, a reference to that period as extended.]
- [ In this paragraph and paragraph 3E “nominating officer” has the same meaning as<sup>F18</sup>(18) in section 18.]

#### Textual Amendments

- F6** Sch. 4A para. 3D(A1) inserted (8.2.2022) by [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022 \(c. 2\), ss. 2\(5\)\(a\), 9](#) (with s. 4(2)(3))
- F7** Sch. 4A para. 3D(2)(c) 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(k)(ii)(aa)
- F8** Words in Sch. 4A para. 3D(2)(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(k)(ii)(bb)

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- F9** Words in Sch. 4A para. 3D(3) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(5)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F10** Sch. 4A para. 3D(4A) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(6)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F11** Sch. 4A para. 3D(11)(aa) inserted (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 2(5)(b)**, 9 (with s. 4(2)(3))
- F12** Word in Sch. 4A para. 3D(11)(b) omitted (27.9.2014) by virtue of Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F13** Sch. 4A para. 3D(11)(ba) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(a)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F14** Words in Sch. 4A para. 3D(11)(c) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(7)(b)**, 28(7); S.I. 2014/2613, art. 2(1)(a)
- F15** Words in Sch. 4A para. 3D(14) inserted (8.2.2022) by Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 (c. 2), **ss. 2(5)(c)**, 9 (with s. 4(2)(3))
- F16** Sch. 4A para. 3D(16) 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(k)(ii)(cc)
- F17** Words in Sch. 4A para. 3D(17) 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(k)(ii)(dd)
- F18** Sch. 4A para. 3D(18) inserted (27.9.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 8(8)**, 28(7); S.I. 2014/2613, art. 2(1)(a)

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

- C1** Sch. 4A para. 3D(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)**
- C2** Sch. 4A para. 3D(2)(a) excluded (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), s. 11(2), **Sch. 1 para. 2(1)**

*Reappointment of other Northern Ireland Ministers in certain cases*

- [<sup>F19</sup>3E (1) Where the first condition or the second condition is met—
- (a) all the Northern Ireland Ministers other than the relevant Minister cease to hold office, and
- (b) those Ministerial offices must be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (2) The first condition is that—
- (a) the relevant Minister ceased to hold office by virtue of paragraph 3D(1)(a), and the office was filled by virtue of paragraph 3D(1)(b),
- (b) paragraph 3D(1) applied because a resolution was passed under section 30(2) which caused no Ministerial office other than the relevant Ministerial office to become vacant, and
- (c) as a result of the events mentioned in paragraph (a) the total number of Ministerial offices held by members of a political party increased or decreased.
- (3) The second condition is that—
- (a) the relevant Minister (“the former Minister”) ceased to hold office otherwise than by virtue of paragraph 3D(1)(a), and the office was filled by virtue of paragraph 3D(14), and
- (b) as a result of the events mentioned in paragraph (a) the total number of Ministerial offices held by members of a political party increased or decreased.

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- (4) But the second condition is not met where—
- (a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under paragraph 3D(11)(ba),
  - (b) immediately before the office was filled there was at least one eligible member of the nominating officer's political party, and
  - (c) each such eligible member failed to fill the office for one or other of the following reasons.
- (5) Those reasons are—
- (a) that one or more members of the Assembly sought to nominate the eligible member for the office, but consent to the nomination was not given by the nominating officer in accordance with paragraph 3D(4A);
  - (b) that the eligible member was nominated for the office but did not take it up within the period specified in standing orders under paragraph 3D(7)(a).
- (6) References in this paragraph to an eligible member of a political party are to a member of that party who is also a member of the Assembly, but do not include the former Minister.]]

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**Textual Amendments**

**F19** Sch. 4A para. 3E inserted (27.9.2014) by [Northern Ireland \(Miscellaneous Provisions\) Act 2014 \(c. 13\)](#), ss. 9, 28(7); S.I. 2014/2613, art. 2(1)(b)

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