



Northern Ireland Act 1998

1998 CHAPTER 47

PART I

PRELIMINARY

4 Transferred, excepted and reserved matters.

(1) In this Act—

“excepted matter” means any matter falling within a description specified in Schedule 2;

“reserved matter” means any matter falling within a description specified in Schedule 3;

“transferred matter” means any matter which is not an excepted or reserved matter.

(2) If at any time after the appointed day it appears to the Secretary of State—

(a) that any reserved matter should become a transferred matter; or

(b) that any transferred matter should become a reserved matter,

he may, subject to [^{F1}subsections (2A) [^{F2}to (3D)]] , lay before Parliament the draft of an Order in Council amending Schedule 3 so that the matter ceases to be or, as the case may be, becomes a reserved matter with effect from such date as may be specified in the Order.

[^{F3}(2A) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending Schedule 3 so that a policing and justice matter ceases to be a reserved matter unless—

(a) a motion for a resolution praying that the matter should cease to be a reserved matter is tabled by the First Minister and the deputy First Minister acting jointly; and

(b) the resolution is passed by the Assembly with the support of a majority of the members voting on the motion, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.]

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- (3) The Secretary of State shall not lay [^{F4}before Parliament under subsection (2) the draft of any other Order] unless the Assembly has passed with cross-community support a resolution praying that the matter concerned should cease to be or, as the case may be, should become a reserved matter.
- [^{F5}(3A) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending paragraph 16 of Schedule 3 (Civil Service Commissioners for Northern Ireland) unless the Secretary of State has, at least three months before laying the draft, laid a report before Parliament.
- (3B) The report under subsection (3A) must set out the Secretary of State's view of the effect (if any) that the Order would have on—
- (a) the independence of the Civil Service Commissioners for Northern Ireland;
 - (b) the application of the principle that persons should be selected for appointment to the Northern Ireland Civil Service on merit on the basis of fair and open competition; and
 - (c) the impartiality of the Northern Ireland Civil Service.]
- [^{F6}(3C) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending paragraph 42(aa) of Schedule 3 (Northern Ireland Human Rights Commission) unless the Secretary of State has, at least three months before laying the draft, laid a report before Parliament.
- (3D) The report under subsection (3C) must set out the Secretary of State's view of the effect (if any) that the Order would have on—
- (a) the independence of the Northern Ireland Human Rights Commission;
 - (b) the application of internationally accepted principles relating to national human rights institutions; and
 - (c) the relationship between the Northern Ireland Human Rights Commission and the Assembly.]
- (4) If the draft of an Order laid before Parliament under subsection (2) 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.
- (5) In this Act—
- “the Assembly” means the New Northern Ireland Assembly, which after the appointed day shall be known as the Northern Ireland Assembly;
- “cross-community support”, in relation to a vote on any matter, means—
- (a) the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting; or
 - (b) the support of 60 per cent of the members voting, 40 per cent of the designated Nationalists voting and 40 per cent of the designated Unionists voting;
- “designated Nationalist” means a member designated as a Nationalist in accordance with standing orders of the Assembly and “designated Unionist” shall be construed accordingly.
- [^{F7}(5A) Standing orders of the Assembly shall provide that a member of the Assembly designated in accordance with the standing orders as a Nationalist, as a Unionist or as Other may change his designation only if—

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- (a) (being a member of a political party) he becomes a member of a different political party or he ceases to be a member of any political party;
- (b) (not being a member of any political party) he becomes a member of a political party.]

[^{F8}(6) In this section “policing and justice matter” means a matter falling within a description specified in—12

- (a) any of paragraphs 9 to 12, 14A to 15A and 17 of Schedule 3; or
- (b) any other provision of that Schedule designated for this purpose by an order made by the Secretary of State.]

Textual Amendments

- F1** Words in s. 4(2) substituted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 16(2), 31**; S.I. 2009/448, **art. 2**
- F2** Words in s. 4(2) substituted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 10(4), 28(4)**
- F3** S. 4(2A) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 16(3), 31** (as amended by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(5), 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**); S.I. 2009/448, **art. 2**
- F4** Words in s. 4(3) substituted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 16(4), 31**; S.I. 2009/448, **art. 2**
- F5** S. 4(3A)(3B) inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 10(5), 28(4)**
- F6** S. 4(3C)(3D) inserted (13.5.2014) by Northern Ireland (Miscellaneous Provisions) Act 2014 (c. 13), **ss. 11(3), 28(4)**
- F7** S. 4(5A) inserted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2), **13, 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) 2007 c. 4, s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**
- F8** S. 4(6) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), **ss. 16(5), 31** (as amended by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss 18(6), 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**); S.I. 2009/448, **art. 2**

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