

NORTHERN IRELAND ASSEMBLY (ELECTIONS AND PERIODS OF SUSPENSION) ACT 2003

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes refer to the Northern Ireland Assembly (Elections and Periods of Suspension) Act which received Royal Assent on 15 May 2003. They have been prepared by the Northern Ireland Office in order to assist the reader in understanding the Act. They do not form part of the Act and have not been endorsed by Parliament.
2. The notes need to be read in conjunction with the Act. They are not, and are not meant to be, a comprehensive description of the Act. So where a section or part of a section does not seem to require any explanation or comment, none is given.

BACKGROUND

3. The purpose of the Act is to postpone the date of the poll for the election of the next Northern Ireland Assembly from 29 May 2003, and to provide a mechanism for setting the date of the next poll. The Act also contains consequential provision to deal with the effects of the postponement taking place after the commencement of the statutory electoral timetable, including the effects on former members of the devolved Assembly; and certain matters relating to the lengthening of the period of dissolution.
4. The Act follows intensive negotiations between the UK and Irish Governments and Northern Ireland political parties. These negotiations were aimed at restoring power to the devolved institutions in Northern Ireland, which are currently suspended under the terms of the Northern Ireland Act 2000, and the full implementation of the Belfast Agreement. The Government's judgement is that, in the absence of clarity on an end to paramilitary activity in Northern Ireland, there is not sufficient trust and confidence among the Northern Ireland parties to permit the restoration of functioning devolved institutions immediately following a 29 May election. The postponement is intended to allow the two Governments to continue efforts to rebuild the trust and confidence necessary for the restoration of effective devolved institutions.

COMMENTARY ON SECTIONS

Section 1: Election of next Assembly

5. This section amends the Northern Ireland Act 1998 and postpones the date of the poll for next Assembly election from 29 May 2003 to a date to be specified in an order made by the Secretary of State.
6. *Subsection (2)* substitutes a new section 31(2) in the 1998 Act and provides that the date of the poll for the next election of the Assembly shall be a date specified in an order made by the Secretary of State.
7. *Subsection (3)* inserts new subsections (2A) to (2D) to section 96 of the 1998 Act. This provides that the order made under the new section 31(2) shall be laid before Parliament

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after it is made. The order shall cease to have effect if it is not approved by a resolution of each House of Parliament before the end of the period of 28 days beginning with the date on which it is made. In calculating the period of 28 days, no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

8. *Subsection (4)* amends, for the purposes of the next election, the timetable set out in the Parliamentary Election Rules in Schedule 1 of the Northern Ireland Assembly (Elections) Order 2001. It also provides for what is to be the “relevant period” for the purpose of paragraph 7 of each of the schedules 9 and 10 to the Political Parties, Elections and Referendums Act 2000, which provide limits on campaign expenditure and controlled expenditure respectively in relation to Assembly elections.
9. *Subsection (5)* repeals various subsections of the Northern Ireland Assembly Elections Act 2003, which are now spent.

Section 2: May Election: supplementary provisions

10. *Section 2* makes supplementary provision in respect of the election which was to have taken place on 29 May 2003.
11. *Subsection (1)* states that any action undertaken in preparation for the election on 29 May 2003 pursuant to the Election Rules, as defined in *subsection (4)*, ceases to have effect and will not have effect for any subsequent election.
12. *Subsection (2)* provides that this applies for example to any nominations which were made for the 29 May 2003 election. *Subsection (3)* provides that any deposits which were made by candidates must be returned to them.

Section 3: Payments relating to May Elections.

13. *Section 3* makes provision for the Secretary of State to make payments to registered parties and candidates in accordance with a scheme in respect of expenditure which they incurred preparing for the election which was to have taken place on 29 May 2003.
14. *Subsection (1)* confers a power on the Secretary of State to make payments in line with a scheme made under this section.
15. *Subsection (2)* requires that the scheme must cover payments which are to be made to registered parties in connection with their campaign expenditure and to candidates in connection with their election expenses. Campaign expenditure and election expenses will be defined in the scheme.
16. *Subsection (3)* stipulates that the scheme must include provision for the matters listed in the subsection.
17. *Subsection (4)* enables the scheme to provide that campaign expenditure which was incurred for the election scheduled to take place on 1 May 2003 is to count for the purpose of payments under the scheme.
18. *Subsections (5) to (7)* require the Electoral Commission to make recommendations to the Secretary of State on the terms of the scheme, and require the Secretary of State to make and publish the scheme, after giving effect to the recommendations or making appropriate modifications.

Section 4: Remuneration of members of the Assembly

19. This section authorises the payment of salaries and allowances to former Members of the dissolved Assembly.

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20. *Subsection (1)* enables provisions to be made for former Members to receive salaries and allowances up to the last nomination day for the next election, and, if nominated, up to the end of the day of the poll for that election.
21. *Subsection (2)* safeguards existing entitlements up to the date of Royal Assent.
22. *Subsection (3)* clarifies that these modifications apply during suspension of the Assembly when the relevant powers of the Assembly are exercised by the Secretary of State. Under this power the amounts of salaries and allowances will be determined by the Secretary of State.

Section 5: Supplementary provisions

23. This section amends the Schedule to the Northern Ireland Act 2000 and contains additional modifications to various enactments which will apply during the suspension of the Assembly.
24. In particular, the amendments take account of the extended dissolution of the Assembly brought about by this Act. They modify references in legislation to procedures, a Committee and Members of the Assembly.

Section 6: Modification of enactments

25. This section enables the Secretary of State to make consequential and connected modifications to legislation where necessary as a result of this Act or any provision made under it.
26. *Subsection (2)* makes clear that an order under *subsection (1)* may provide for any duties of the Chief Electoral Officer of Northern Ireland to be modified.
27. *Subsection (4)* defines the types of legislation that the Secretary of State can modify under subsection (1).
28. *Subsections (5) to (9)* provide that an order under *subsection (1)* must be approved by both Houses of Parliament unless the Secretary of State declares in the order that it is not expedient to do so. An order containing such a declaration is to be laid before Parliament after being made and will cease to have effect if it is not approved by each House within 40 days, without prejudice to anything done in the interim.

Section 7: Renewal of powers under section 1

29. This section requires the Secretary of State to return to Parliament to extend the power to call an election if he has not exercised that power by 15 November 2003 (six months after Royal Assent). The power is then renewable for periods of up to six months thereafter.
30. *Subsection (1)* provides that the statutory provisions which enable the Secretary of State to set a date for the next Assembly election (known as the “temporary provisions”) expire on 15 November 2003, unless the date for the next election has already been set by then or an order has been made under subsection (2).
31. *Subsection (2)* provides that the Secretary of State may by order provide that the temporary provisions are to continue in force for further periods of up to six months at a time.
32. *Subsection (3)* provides that an order made under *subsection (2)* may not be made unless a draft of the order has been approved by a resolution of each House of Parliament.
33. *Subsection (4) and (5)* ensure that, if an order to set the date for the next election is made before the expiry of the order-making power (as extended, where applicable, using the renewal powers under subsection (2)), the provisions do not lapse and the order setting the election date remains valid.

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34. *Subsection (6)* provides that if the temporary provisions expire, the Secretary of State must by order make such amendments of enactments as appear to him to be necessary or expedient in consequence of the expiry.
35. *Subsections (7)* applies *subsections (4)* to *(7)* and *(9)* of section 6 to an order made under *subsection (6)*. These subsections define the type of legislation that the Secretary of State can modify by order under section 7(6) and the procedure for making such an order.
36. *Subsection (8)* provides that if an order made under *subsection (6)* ceases to have effect, by virtue of section 6(7)(b) as applied by section 7(7), this is without prejudice to the making of a new order.

COMMENCEMENT

37. All the provisions of the Act came into force on Royal Assent on 15 May 2003

<i>Date</i>	<i>Parliamentary Stage</i>	<i>Hansard Reference</i>
8 May 2003	Introduction	Columns 855
12 May 2003	Commons Second Reading, Committee, Report and Third Reading	Columns 64 – 138
13 May 2003	Lords Second Reading	Columns 133 – 164
14 May 2003	Lords Committee	Columns 242 - 245
14 May 2003	Lords Report and Third Reading	Columns 293 - 296
14 May 2003	Commons Consideration of Lords Amendments	Columns 417 - 432