
Status: Point in time view as at 12/03/2009.

Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 2009, SCHEDULE 1. (See end of Document for details)

SCHEDULES

SCHEDULE 1

Section 1

NORTHERN IRELAND DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

PART 1

PRELIMINARY

- 1 In this Schedule “the 1998 Act” means the Northern Ireland Act 1998 (c. 47).
- 2 For the purposes of paragraph 22 of Schedule 2 to the 1998 Act, treat this Schedule as being contained in Part 3 of the 1998 Act.

PART 2

AMENDMENTS TO THE 1998 ACT RELATING TO DEPARTMENTAL MODEL FOR POLICING AND JUSTICE FUNCTIONS

- 3 (1) Amend section 21A of the 1998 Act as follows.
 - (2) In subsections (1) and (6) after “(3)” insert “, (3A) ”.
 - (3) After subsection (3) insert—
 - “(3A) 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 one or more members of the Assembly, 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 (1) Amend Schedule 4A to the 1998 Act as follows.
 - (2) At the end of the heading for Part 1 insert “ by virtue of section 21A(3) ”.
 - (3) After Part 1 insert—

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“PART 1A

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

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).

Modification of section 16A

- 3B (1) Section 16A(3) shall have effect with the following modifications.
- (2) It shall have effect as if in paragraph (b) after “Ministers” there were inserted “ (other than the relevant Ministerial office (within the meaning of Part 1A of Schedule 4A)) ”.
 - (3) It shall have effect as if after paragraph (b) there were inserted “; and
 - (c) once the offices to be filled under paragraphs (a) and (b) 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”.

Section 18 not to apply to relevant Minister

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

Provisions relating to relevant Minister

- 3D (1) Where any of the following conditions is satisfied—

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- (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);
 - (c) a direction which causes the relevant Ministerial office to become vacant is given under section 30A(5);
 - (d) a period of exclusion under section 30(2) or 30A(5) comes to an end (otherwise than by virtue of section 95A(6) or (7));
 - (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 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.
- (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.
- (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,

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- (b) the Minister ceases to be a member of the Assembly otherwise than by virtue of a dissolution, or
 - (c) 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 (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).
- (16) Where—
- (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,
- no member of that party may be nominated under sub-paragraph (4).
- (17) In this paragraph, 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.”
- (4) In paragraph 12(1) after “21A(3),” insert “ (3A), ”.
- (5) After paragraph 12 insert—
- “13 Paragraphs 3(10), 3D(14), 7(10), 11(10) and (11) and 11E(10) of this Schedule shall have effect subject to paragraphs 2 and 3 of Schedule 12A (as those paragraphs are modified at any time by virtue of paragraph 12 of this Schedule).”

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PART 3

SPECIAL PROVISION APPLYING TO FIRST POLICING AND JUSTICE DEPARTMENT

Application

- 5 (1) Paragraphs 6 to 8 apply in relation to the first Northern Ireland department established by an Act of the Northern Ireland Assembly the purpose of which is to exercise functions consisting wholly or mainly of devolved policing and justice functions (as defined in section 21A(8) of the 1998 Act).
- (2) But—
- (a) they apply only if that Act of the Assembly makes provision of the kind mentioned in section 21A(3A) of the 1998 Act (“the initial ministerial provision”), and
 - (b) they are not to apply at all if an Order in Council has been made under section 21A(7C) of the 1998 Act.

Section 18(1)(b) of the 1998 Act not to apply on establishment of department

- 6 Section 18(1)(b) of the 1998 Act does not apply to the determination under section 17(1) of the 1998 Act required by virtue of section 17(2) in relation to the establishment of the department.

Filling of Ministerial office after election

- 7 (1) This paragraph applies before 1 May 2012.
- (2) For the purposes of section 16A(3) of the 1998 Act the relevant Ministerial office (within the meaning of Part 1A of Schedule 4A to the 1998 Act) may be filled after the end of the period mentioned.
- (3) Accordingly—
- (a) section 16A(8) of the 1998 Act does not apply to a person taking up office as the relevant Minister (within the meaning of Part 1A of Schedule 4A to the 1998 Act), and
 - (b) section 32(3)(a) of the 1998 Act applies as if the reference to the Ministerial offices to be held by Northern Ireland Ministers excluded the relevant Ministerial office.

Dissolution of department etc

- 8 (1) The department dissolves on 1 May 2012 unless, before 1 May 2012—
- (a) the Assembly resolves that the department is to continue operating from 1 May 2012, or
 - (b) a second Act of the Assembly (“the second Act”) makes provision authorised by sub-paragraph (3).
- (2) A resolution for the purposes of sub-paragraph (1)(a) must be passed with cross-community support (as defined in section 4(5) of the 1998 Act).
- (3) The second Act may provide that the department is to continue operating from 1 May 2012.

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- (4) The second Act may repeal the initial ministerial provision with effect from a specified date.
- (5) If the second Act repeals the initial ministerial provision, it may also—
- (a) replace the initial ministerial provision with provision of the kind mentioned in section 21A(3), (4), (5) or (5A) of the 1998 Act with effect from the specified date (and the relevant provisions of Schedule 4A to the 1998 Act apply), or
 - (b) provide for the department to be in the charge of the First Minister and the deputy First Minister acting jointly with effect from the specified date (and section 21(3)(a) and (b) of the 1998 Act apply);
- and if no provision is made within paragraph (a) or (b), the Ministerial office of the Minister in charge of the department is to be filled under section 18 of the 1998 Act.
- (6) If the second Act repeals the initial ministerial provision, a determination under section 17(1) of the 1998 Act must be made on the specified date.
- (7) That determination takes effect immediately (and, accordingly, section 17(5) of the 1998 Act does not apply in relation to it).
- (8) If the second Act replaces the initial ministerial provision with provision of the kind mentioned in section 21A(5A) of the 1998 Act, paragraph 11E(1) of Schedule 4A to the 1998 Act applies as if devolved policing and justice functions were first transferred to, or conferred on, the department when the determination required by sub-paragraph (6) takes effect in accordance with sub-paragraph (7).
- (9) Nothing in this paragraph stops an Act of the Assembly dissolving the department at any time.

Amendments to sections 21B and 21C of the 1998 Act

- 9 In section 21B(1)(a) of the 1998 Act for “and to make” to “21A(5A)” substitute “ the purpose of which is to exercise functions consisting wholly or mainly of devolved policing and justice functions but only if the Act makes provision of the kind mentioned in section 21A(5A) (other than by virtue of paragraph 8(5) of Schedule 1 to the Northern Ireland Act 2009) ”.
- 10 In section 21C(1) of the 1998 Act—
- (a) for “a new Northern Ireland department” substitute “ the first Northern Ireland department the purpose of which is to exercise functions consisting wholly or mainly of devolved policing and justice functions (as defined in section 21A(8)) ”;
 - (b) in paragraph (a) after “21A(5A)” insert “ (other than by virtue of paragraph 8(5) of Schedule 1 to the Northern Ireland Act 2009) ”.

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