

SCHEDULES

SCHEDULE 1

NORTHERN IRELAND DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

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.
- (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)”.