



# Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022

## 2022 CHAPTER 2

### *Executive formation*

#### **1 Period for making Ministerial appointments**

- (1) The Northern Ireland Act 1998 is amended as follows.
- (2) In section 16A (appointment of Ministers following Assembly election), in subsection (3), for the words before paragraph (a) substitute “Before the end of the period for filling Ministerial offices—”.
- (3) After subsection (3) of that section insert—
  - “(3A) In this section “the period for filling Ministerial offices” means the period comprising—
    - (a) the period of six weeks beginning with the day on which the Assembly first meets, and
    - (b) the next three successive periods of six weeks (each referred to as an “extension period”), except for any period that is excluded by subsection (3B).
  - (3B) An extension period is excluded if, before it begins, the Assembly resolves that the period for filling Ministerial offices should not be extended (or further extended).
  - (3C) The Assembly may not pass a resolution under subsection (3B) without cross-community support.”
- (4) In section 16B, for subsection (3) substitute—
  - “(3) Where at any time the offices of First Minister and deputy First Minister become vacant otherwise than by virtue of section 16A(11A), they shall be filled by applying subsections (4) to (7) before the end of the period for filling the offices of First Minister and deputy First Minister.

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- (3A) In this section “the period for filling the offices of First Minister and deputy First Minister” means the period comprising—
- (a) the period of six weeks beginning with the day on which the offices of First Minister and deputy First Minister become vacant, and
  - (b) the next three successive periods of six weeks (each referred to as an “extension period”), except for any period that is excluded by subsection (3B).
- (3B) An extension period is excluded if, before it begins, the Assembly resolves that the period for filling the offices of First Minister and deputy First Minister should not be extended (or further extended).
- (3C) The Assembly may not pass a resolution under subsection (3B) without cross-community support.”
- (5) In consequence of the amendments made by this section, in the Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016, omit section 6 and Schedule 1.

#### Commencement Information

**II** S. 1 in force at Royal Assent, see [s. 9](#)

## 2 Duration of Ministerial appointments

- (1) The Northern Ireland Act 1998 is amended as follows.
- (2) In section 16A—
- (a) omit subsection (2) (Northern Ireland Ministers cease to hold office following Assembly election);
  - (b) in subsection (10), for “and the deputy First Minister” substitute “, the deputy First Minister and the Northern Ireland Ministers”;
  - (c) after subsection (11) insert—
 

“(11A) The First Minister and deputy First Minister cease to hold office if the period of 24 weeks beginning with the day on which an Assembly first meets expires without those offices having been filled by virtue of this section.”
- (3) In section 18—
- (a) before subsection (1) insert—
 

“(A1) Where—

    - (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 subsection (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

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(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, all Northern Ireland Ministers shall cease to hold office (and the Ministerial offices shall remain vacant until next filled by virtue of section 16A).

(A2) Where the Secretary of State—

- (a) has proposed, or is under a duty to propose, a date for the poll for the election of the next Assembly under section 32(1) or (3), and
- (b) considers that, in order to give effect to the purpose underlying paragraph 3.15 of Annex C of Part 2 of The New Decade, New Approach Deal so far as it relates to representation, it is necessary for the Northern Ireland Ministers to cease to hold office on the election of that Assembly,

the Secretary of State may issue a certificate that the conditions in paragraphs (a) and (b) are met.”;

(b) in subsection (9) (circumstances in which an individual Northern Ireland Minister ceases to hold office), after paragraph (a) insert—

“(aa) there is an Assembly election at which the Minister is not returned as a member;”;

(c) in subsection (10), after “subsection” insert “(A1) or”.

(4) In section 98, in subsection (1), at the appropriate place insert—

““The New Decade, New Approach Deal” means the deal to restore devolved government in Northern Ireland published by that name in January 2020;”.

(5) In Schedule 4A (Minister of Justice), in paragraph 3D—

(a) before sub-paragraph (1) insert—

“(A1) Where—

- (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).”;

(b) in sub-paragraph (11), after paragraph (a) insert—

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- “(aa) there is an Assembly election at which the Minister is not returned as a member.”;
- (c) in sub-paragraph (14), after “sub-paragraph” insert “(A1) or”.

#### Commencement Information

**I2** S. 2 in force at Royal Assent, see **s. 9**

### 3 Extraordinary Assembly elections

- (1) Section 32 of the Northern Ireland Act 1998 (extraordinary elections) is amended as follows.
- (2) In subsection (1) (Secretary of State’s duty to trigger election if Assembly resolves to dissolve itself), after “shall” insert “, as soon as practicable,”.
- (3) After subsection (1) insert—
- “(1A) The proposed date must be within the period of 12 weeks beginning with the day on which the resolution is passed.”
- (4) In subsection (3) (Secretary of State’s duty to trigger election if Ministerial offices not filled), in the words after paragraph (b), after “shall” insert “, as soon as practicable,”.
- (5) After subsection (3) insert—
- “(3A) The proposed date must be within the period of 12 weeks beginning when the duty in subsection (3) arises.
- (3B) At any time after the first six weeks of the period mentioned in section 16A(3) or 16B(3) but before the end of the period mentioned there, the Secretary of State may, if the offices mentioned there have not yet been filled, propose a date for the poll for the election of the next Assembly.
- (3C) The Secretary of State may exercise the power in subsection (3B) only if the Secretary of State considers that it is necessary to do so in order to give effect to the purpose underlying paragraph 3.15 of Annex C of Part 2 of The New Decade, New Approach Deal so far as it relates to representation.
- (3D) The Assembly may not pass a resolution under subsection (1)—
- (a) during a period when the Secretary of State is under a duty to propose a date under subsection (3), or
- (b) if the Secretary of State has proposed a date under subsection (3) or (3B) and that date has not yet been reached.
- (3E) The duty in subsection (3) does not arise if—
- (a) the Assembly passes a resolution under subsection (1) during the period mentioned in section 16A(3) or 16B(3), or
- (b) the Secretary of State proposes a date under subsection (3B) during that period.
- (3F) The Secretary of State may not propose a date under subsection (3B)—
- (a) during a period when the Secretary of State is under a duty to propose a date under subsection (1), or

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(b) if the Secretary of State has proposed a date under subsection (1) and that date has not yet been reached.

(3G) Where the Secretary of State has proposed a date under subsection (1), (3) or (3B), the Secretary of State may, before the Assembly has been dissolved—

- (a) propose a different date under that subsection, or
- (b) in the case of a date proposed under subsection (3B), withdraw the proposal;

and an Order in Council under subsection (4) may be amended or revoked accordingly.”

(6) In subsection (4), for “or (3)” substitute “, (3) or (3B)”.

#### Commencement Information

**I3** S. 3 in force at Royal Assent, see [s. 9](#)

## 4 Transitional provision

(1) The amendments made by sections 1(2), (3) and (5) and 2(2) do not apply in a case where section 16A of the Northern Ireland Act 1998 applies as the result of an Assembly being elected before this Act comes into force.

(2) The new provisions relating to vacancies in the office of First Minister or deputy First Minister—

- (a) apply in relation to vacancies arising within the period of seven days ending when this Act comes into force, but
- (b) do not otherwise apply in relation to vacancies arising before this Act comes into force.

(3) For these purposes “the new provisions relating to vacancies in the office of First Minister or deputy First Minister” means—

- (a) the amendment made by section 1(4),
- (b) the new section 18(A1)(c) to be inserted into the Northern Ireland Act 1998 by section 2(3), and
- (c) the new paragraph 3D(A1)(c) to be inserted into Schedule 4A to that Act by section 2(5).

(4) The amendments made by section 3 do not apply where the duty of the Secretary of State under section 32(1) or (3) of the Northern Ireland Act 1998 arises before this Act comes into force.

#### Commencement Information

**I4** S. 4 in force at Royal Assent, see [s. 9](#)

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