



EXPLANATORY NOTES

Northern Ireland (Executive Formation) Act 2024

Chapter 2

NORTHERN IRELAND (EXECUTIVE FORMATION) ACT 2024

EXPLANATORY NOTES

What these notes do

These Explanatory Notes relate to the Northern Ireland (Executive Formation) Act 2024 which received Royal Assent on 25 January 2024 (c. 2).

- These Explanatory Notes have been prepared by the Northern Ireland Office in order to assist the reader of the Act and help inform debate on it. They do not form part of the Act and have not been endorsed by Parliament.
- These Explanatory Notes explain what each part of the Act will mean in practice; provide background information on the development of policy; and provide additional information on how the Act will affect existing legislation in this area.
- These Explanatory Notes might best be read alongside the Act. They are not, and are not intended to be, a comprehensive description of the Act.

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These Explanatory Notes relate to the Northern Ireland (Executive Formation) Act 2024 which received Royal Assent on 25 January 2024 (c. 2).

Overview of the Act

- 1 In summary, this Act will:
 - a. extend the Executive formation period from 18 January 2024 to 8 February 2024 with the effect of postponing the Secretary of State's duty, under section 32(3) of the Northern Ireland Act 1998, to call an election in Northern Ireland.

Policy background

- 2 Northern Ireland Assembly elections were held on 5 May 2022, as five years had passed since the previous Assembly was elected. Prior to the election, there was no functioning Executive due to the resignation of the then First Minister on 4 February 2022. The First Minister's resignation meant that the deputy First Minister also ceased to hold office and that there was no longer any functioning Executive Committee.
- 3 As a result of the election on 5 May, 90 Members of the Legislative Assembly were elected, forming a new Assembly. The Northern Ireland Act 1998 requires that the Assembly first meets within 8 days of a poll, and that meeting commences the period for filling Ministerial offices.
- 4 The Northern Ireland (Ministers, Elections and Petitions of Concern) Act 2022 implemented changes agreed within New Decade, New Approach (NDNA), the agreement that restored the devolved institutions in 2020. These changes include provision for a longer period of time in which to form an Executive, and allowed for an initial period of 6 weeks from the date that the Assembly first meets, followed by 3 successive periods of 6 weeks (i.e. 24 weeks in total), unless the Assembly resolves (with cross-community support) that the period should not be further extended. During this time, NI Ministers who were in post before the election were allowed to remain so in a caretaker capacity.
- 5 The period for filling Ministerial offices after the Assembly election in May 2022 initially came to an end on 27 October 2022, with NI Ministers ceasing to hold office on 28 October 2022. As those offices were not filled, the Secretary of State for Northern Ireland fell under a duty to propose a date for a further Assembly election as soon as practicable to take place within 12 weeks.
- 6 Parliament subsequently passed the Northern Ireland (Executive Formation etc) Act 2022 (NIEFA 2022), retrospectively extending the period for Executive formation from when it ended on 27 October until 8 December 2022, and for the powers to be extended by regulations. The Secretary of State exercised that power on 7 December, thereby extending the period for Executive formation until 19 January 2023. The period was further extended until 18 January 2024 by the Northern Ireland (Executive Formation and Organ and Tissue Donation) Act 2023.

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Legal Background

- 7 The relevant legal background is explained in the Policy Background and Decision-making Powers sections of these Notes.

Territorial extent and application

- 8 The Act extends to England and Wales, Scotland and Northern Ireland, but only applies in Northern Ireland.
- 9 See the table in Annex A for a summary of the position regarding territorial extent and application in the United Kingdom.

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Commentary on provisions of the Act

Section 1: Extension of period for making Ministerial appointments

- 10 By making amendments to section 1 of the Northern Ireland (Executive Formation etc) Act 2022, this section amends the effect of section 16A of the Northern Ireland Act 1998 during the period following the 5 May 2022 elections. The legislation will extend the period for filling Ministerial offices which follows from the elections that took place on 5 May 2022 for a further period to apply partly retrospectively (so that it applies from 19 January 2024 until 8 February 2024).

Commencement

- 11 This Act will come into force on the day on which it is passed.

Environmental law for the purposes of the Environment Act 2021

- 12 The Secretary of State, the Rt Hon Chris Heaton-Harris MP is of the view that the Act as introduced into the House of Commons does not contain provision which, if enacted, would be environmental law for the purposes of section 20 of the Environment Act 2021. Accordingly, no statement under that section has been made.

Related documents

- 13 The following documents are relevant to the Northern Ireland (Executive Formation) Act:
 - [The Northern Ireland Act 1998](#)
 - [The Northern Ireland \(Executive Formation etc Act\) 2022](#)
 - [Northern Ireland \(Executive Formation and Organ and Tissue Donation\) Act 2023](#)
 - [Northern Ireland \(Interim Arrangements\) Act 2023](#)

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Annex A - Territorial extent and application in the United Kingdom

Provision	England	Wales	Scotland	Northern Ireland
	Extends to E & W and applies to England?	Extends to E & W and applies to Wales?	Extends and applies to Scotland?	Extends and applies to Northern Ireland?
Section 1	Yes	Yes	Yes	Yes

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Annex B – Hansard References

14 The following table sets out the dates and Hansard references for each stage of the Bill’s passage through Parliament.

Stage	Date	Hansard Reference
<i>House of Commons</i>		
Introduction	24 January 2024	
Second Reading	24 January 2024	Vol 744 Col 317
Committee Stage	24 January 2024	Vol 744 Col 346
Third Reading	24 January 2024	Vol 744 Col 346
<i>House of Lords</i>		
Introduction	24 January 2024	Vol 835
Second Reading	24 January 2024	Vol 835 Col 770
Committee Stage	24 January 2024	Vol 835 Col 797
Report Stage	24 January 2024	Vol 835 Col 797
Third Reading	24 January 2024	Vol 835 Col 797
Royal Assent	25 January 2024	Vol 835

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