

SCHEDULES

SCHEDULE 18

Amendments relating to Article 15(1) to (4) etc

PART 1

Acts of the Parliament of the United Kingdom

Arbitration (International Investment Disputes) Act 1966

- 1.—(1) Amend the Arbitration (International Investment Disputes) Act 1966(1) as follows.
- (2) In section 8 (application to Northern Ireland) after paragraph (b) insert—
 - “(c) in relation to the power by order under section 3 to direct that provisions of the Arbitration Act 1996(2) shall apply to such proceedings pursuant to the Convention as are specified in the order, being proceedings taking place in Northern Ireland, for the reference in that section to the Lord Chancellor there shall be substituted a reference to the Department of Justice in Northern Ireland;
 - (d) section 3(3)(b) shall not apply to an order made by the Department of Justice in Northern Ireland under section 3; but any such order shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

Misuse of Drugs Act 1971

2. Amend the Misuse of Drugs Act 1971(3) as follows.
3. In paragraph 21 of Schedule 3 (application to Northern Ireland), in the entry for paragraph 13—
 - (a) after “Minister of Home Affairs for Northern Ireland” insert “and for any reference to the Lord Chancellor there shall be substituted a reference to the Department of Justice in Northern Ireland”;
 - (b) in the inserted sub-paragraph (3) for “Lord Chancellor” substitute “Department of Justice in Northern Ireland”.

Maintenance Orders (Reciprocal Enforcement) Act 1972

4. Amend the Maintenance Orders (Reciprocal Enforcement) Act 1972(4) as follows.

(1) 1966 c. 41. Section 8 was amended by the Judicature (Northern Ireland) Act 1978 (c. 23), section 122(1) and Schedule 5, Part II. Section 3 was substituted by the Arbitration Act 1996 (c.23), section 170(1) and Schedule 3, paragraph 24.

(2) 1996 c. 23.

(3) 1971 c.38. Relevant amendments were made by the Constitutional Reform Act 2005 (c.4).

(4) 1972 c.18. Sections 14(2)(b) and 38(3)(b) were amended by S.I. 1973/2163. Functions of the Secretary of State under the Act, except in relation to Scotland, were transferred to the Lord Chancellor by S.I. 1992/709. Relevant amendments were made by the Maintenance Orders (Reciprocal Enforcement) Act 1992 (c.56).

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5. In sections 14(2)(b) and 38(3)(b) (obtaining evidence) for “Parliament” substitute “the Northern Ireland Assembly”.

6.—(1) Amend section 48 (special provisions relating to Northern Ireland) as follows.

(2) Omit subsection (1).

(3) After subsection (5) insert—

“(6) In the application of this Act to Northern Ireland, for any reference to the Lord Chancellor (including any reference which is treated as a reference to the Lord Chancellor, but not including any such reference in section 49(2)) there shall be substituted a reference to the Department of Justice in Northern Ireland.”

Litigants in Person (Costs and Expenses) Act 1975

7. Amend the Litigants in Person (Costs and Expenses) Act 1975(5) as follows.

8. For section 1(5) (costs or expenses recoverable: application to Northern Ireland) substitute—

“(5) In the application of this section to Northern Ireland—

(a) in subsection (1)—

(i) the expressions “county court”, “the High Court” and “the Court of Appeal” shall have the meanings respectively assigned to them by section 29(1) of the Northern Ireland Act 1962(6);

(ii) the reference to the Lord Chancellor shall be construed as a reference to the Department of Justice in Northern Ireland;

(b) in subsection (3) for “by statutory instrument” to “Parliament” there is substituted “by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(7); and is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(8)”.

Aircraft and Shipbuilding Industries Act 1977

9.—(1) Amend Schedule 7 to the Aircraft and Shipbuilding Industries Act 1977(9) (procedure etc for arbitration tribunal) as follows.

(2) In Part 1, in paragraph 5 after sub-paragraph (2) insert—

“(3) In relation to proceedings in Northern Ireland—

(a) sub-paragraph (1) above shall have effect as if for “Lord Chancellor by statutory instrument” there were substituted “Department of Justice in Northern Ireland”;

(b) rules made under this paragraph by the Department of Justice in Northern Ireland shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

(5) 1975 c. 47.

(6) 1962 c. 30.

(7) S.I. 1979/1573 (N.I. 12).

(8) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(9) 1977 c.3. Part 1 of Schedule 7 was amended by the Arbitration Act 1996 (c. 23) Schedule 3, paragraph 32. Section 42, which introduces Schedule 7, was amended by the Constitutional Reform Act 2005 (c. 4), Schedule 4, paragraph 89.

Judicature (Northern Ireland) Act 1978

- 10.** Amend the Judicature (Northern Ireland) Act 1978⁽¹⁰⁾ as follows.
- 11.**—(1) Amend section 3 (the Court of Appeal) as follows.
- (2) Omit subsection (5).
- (3) For subsection (6) substitute—
- “(6) The Department of Justice may by order from time to time create divisions or additional divisions of the Court of Appeal or provide any division be abolished; and any such order—
- (a) may contain such provision as may appear to the Department to be necessary or proper for that purpose; and
- (b) may amend or repeal any statutory provision (including any provision of this Act) so far as it appears to the Department to be necessary or expedient in consequence of the order.”
- 12.** In section 5(2) (divisions of the High Court)—
- (a) for “Her Majesty may by Order in Council” substitute “The Department of Justice may by order”;
- (b) for “such Order in Council” substitute “such order”.
- 13.** In section 7(4) (further assistance for transaction of judicial business) for “there may be paid” substitute “the Department of Justice shall pay”.
- 14.** In section 53A (making of Crown Court rules)—
- (a) after subsection (1) insert—
- “(1A) For the purposes of this section, “relevant authority” means—
- (a) in relation to Crown Court rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and
- (b) otherwise, the Department of Justice;
- and for the purposes of this subsection “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998⁽¹¹⁾.”;
- (b) for “Lord Chancellor” (wherever occurring) substitute “relevant authority”;
- (c) in subsection (3) for “him” substitute “it”;
- (d) in subsections (5) and (6) for “he” substitute “it”.
- 15.** In section 55A (making of rules for High Court and Court of Appeal)—
- (a) after subsection (1) insert—
- “(1A) For the purposes of this section, “relevant authority” means—
- (a) in relation to rules which deal (or would deal) with an excepted matter, the Lord Chancellor; and
- (b) otherwise, the Department of Justice;
- and for the purposes of this subsection “deal with” and “excepted matter” have the same meanings as in the Northern Ireland Act 1998.”;

⁽¹⁰⁾ 1978 c.23. Section 117A was inserted by the Administration of Justice Act 1982, section 70 and Schedule 8, paragraph 12. Sections 53A and 55A were inserted by the Constitutional Reform Act 2005, section 15(2) and Schedule 5, paragraphs 22, 28 and 30. Section 70(1B) was inserted by paragraph 15(2) of Schedule 4 to the Northern Act 2009 (c.3). Section 119 was amended by paragraph 18 of Schedule 4 to the Northern Act 2009 (c.3).

⁽¹¹⁾ 1998 c. 47.

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- (b) for “Lord Chancellor” (wherever occurring) substitute “relevant authority”;
 - (c) in subsections (3), (4) and (5) for “him” substitute “it”;
 - (d) in subsections (5) and (6) for “he” (wherever occurring) substitute “it”.
- 16.** In section 56 (control and publication of rules) for subsection (1) substitute—
- “(1) Rules made by the Rules Committee shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽¹²⁾.”
- 17.** In section 62 (trial with and without jury)—
- (a) in subsection (6) for “Her Majesty may by Order in Council” substitute “The Department of Justice may by order”;
 - (b) omit subsection (7).
- 18.** In section 68A (duty to secure system to support courts’ business)—
- (a) in the heading for “Lord Chancellor’s duty” substitute “Department of Justice’s duty”;
 - (b) in subsection (2) for “both Houses of Parliament” substitute “the Northern Ireland Assembly”;
 - (c) after subsection (2) insert—
- “(3) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽¹³⁾ applies for the purposes of subsection (2) in relation to the laying of a report as it applies in relation to the laying of a statutory document under an enactment.”
- 19.** In section 70 (appointment of statutory officers) after subsection (1B) insert—
- “(1C) Any salary or other amounts payable under subsection (1B) shall be paid by the Department of Justice.”
- 20.** In section 74(5) (deputies and temporary appointments)—
- (a) for “The Lord Chancellor may pay” substitute “The Department of Justice shall pay”;
 - (b) for “as he may” substitute “as the Lord Chancellor may”.
- 21.** In section 75(8) (Official Solicitor) for “of the State for the purposes of section 1 of the Superannuation Act 1972 (Principal Civil Service Pension Scheme)” substitute “of Northern Ireland for the purposes of Article 3 of the Superannuation (Northern Ireland) Order 1972⁽¹⁴⁾”.
- 22.**—(1) In section 78 (accounts of funds in court)—
- (a) in subsection (1)(b) for “Treasury” substitute “Department of Finance and Personnel”;
 - (b) in subsections (2) and (3) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
 - (c) in subsection (3) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
 - (d) after subsection (4) insert—
- “(5) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a copy of a statement of accounts or report as it applies in relation to the laying of a statutory document under an enactment.”
- (2) Sub-paragraph (1) above does not apply in relation to an accounting period ending before the coming into force of this Order.

⁽¹²⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

⁽¹³⁾ Section 41(3) was substituted by S.I. 1999/663.

⁽¹⁴⁾ S.I. 1972/1073 (N.I. 10).

23. In section 85 (provision for default to be made good) for “Consolidated Fund” substitute “Consolidated Fund of Northern Ireland”.

24. In section 97 (civil jurisdiction exercisable by circuit registrars)—

- (a) in subsection (2) for “Her Majesty may by Order in Council” substitute “The Department of Justice may by order”;
- (b) in subsection (3)—
 - (i) for “Order in Council” substitute “order”;
 - (ii) for “Her Majesty” substitute “the Department of Justice”;
- (c) omit subsection (4).

25. In section 117A (allowances for judges) for “The Lord Chancellor shall pay” substitute “The Department of Justice shall pay”.

26.—(1) Section 119 (subordinate legislation) (as amended by the Northern Ireland Act 2009⁽¹⁵⁾) and the Department of Justice Act (Northern Ireland) 2010⁽¹⁶⁾) is amended as follows.

(2) For subsections (1) to (3) substitute—

“(1) Any power conferred by the preceding provisions of this Act on the Department of Justice to make an order or rules or on the Lord Chief Justice to make regulations shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽¹⁷⁾.

(2) Any statutory rule made under section 2(3), 3(4) or (6), 62(6) or 97(2) is subject to affirmative resolution (within the meaning of section 41(4) of the Interpretation Act (Northern Ireland) 1954⁽¹⁸⁾).

(3) Any other statutory rule made under this Act by the Department of Justice (except an order under section 68(3) or 116) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

(3) In subsection (4)—

- (a) omit “and any power conferred by this Act to make an Order in Council”;
- (b) for “or Order in Council by a subsequent order or Order in Council” substitute “by a subsequent order”.

27. In section 121(1) (financial provisions) for “government department” substitute “department of the Government of the United Kingdom”.

Civil Jurisdiction and Judgments Act 1982

28. Amend the Civil Jurisdiction and Judgments Act 1982⁽¹⁹⁾ as follows.

29. In section 5(1) (maintenance orders under 1968 Convention)—

- (a) in paragraph (a) omit “and Northern Ireland”;
- (b) after paragraph (b) insert—
“; and

⁽¹⁵⁾ 2009 c. 3.

⁽¹⁶⁾ 2010 c. 3 (N.I.).

⁽¹⁷⁾ S.I. 1979/1573 (N.I. 12).

⁽¹⁸⁾ 1954 c. 33 (N.I.) Section 41(4) was amended by S.I. 1999/663.

⁽¹⁹⁾ 1982 c.27. Functions under section 5 of the Act were transferred to the Lord Chancellor, and section 5 was amended, by S.I. 1992/709. Section 5A was inserted by S.I. 2009/3131.

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(c) as respects Northern Ireland, by the Department of Justice in Northern Ireland.”.

30. In section 5A(1) (maintenance orders under Lugano Convention)—

(a) in paragraph (a) omit “and Northern Ireland”;

(b) after paragraph (b) insert—

“; and

(c) as respects Northern Ireland, by the Department of Justice in Northern Ireland”.

Administration of Justice Act 1982

31. Amend the Administration of Justice Act 1982⁽²⁰⁾ as follows.

32. In section 25 (regulations as to deposit and registration of wills)—

(a) in subsection (6) for the words from “Parliament” to “accordingly” substitute “the Northern Ireland Assembly after being made”;

(b) after subsection (6) insert—

“(6A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽²¹⁾ applies for the purposes of subsection (6) in relation to the laying of a statutory rule as it applies in relation to the laying of a statutory document under an enactment.”;

(c) in subsection (7) omit “or (c)”.

33. In section 46 (procedure for making regulations etc)—

(a) at the end of subsection (1) insert “(subject to subsection (1A))”;

(b) after subsection (1) insert—

“(1A) Where the power is exercisable by a Northern Ireland department it shall be exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979⁽²²⁾ subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954⁽²³⁾).”

34.—(1) After section 48 insert—

“48A Application of Part VI to Northern Ireland

(1) In its application to Northern Ireland this Part of this Act shall have effect subject to the following modifications.

(2) For any reference to the Lord Chancellor substitute a reference to the Department of Justice in Northern Ireland.

(3) For any reference to the Treasury substitute a reference to the Department of Finance and Personnel in Northern Ireland.

(4) For any reference to the Consolidated Fund (except the reference in section 39(4A)) substitute a reference to the Consolidated Fund of Northern Ireland.

(5) For any reference to moneys provided by Parliament (except the reference in section 39(4A)) substitute a reference to moneys provided by the Northern Ireland Assembly.

⁽²⁰⁾ 1982 c.53; to which there are amendments not relevant to this Schedule.

⁽²¹⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

⁽²²⁾ S.I. 1979/1573 (N.I. 12).

⁽²³⁾ 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(6) For the reference in section 45(1) to the Comptroller and Auditor General substitute a reference to the Comptroller and Auditor General for Northern Ireland.

(7) For section 42(5) substitute—

“(5) Shares in a common investment fund—

(a) shall be allotted to and held by the Accountant General of the Court of Judicature of Northern Ireland, and

(b) may be allotted to and held by any other person authorised by the Department of Justice in Northern Ireland.”

(8) For section 45(3) substitute—

“(3) The Comptroller and Auditor General for Northern Ireland shall examine, certify and report on accounts sent to him under subsection (1) above and lay copies of them and his report on them before the Northern Ireland Assembly.

(3A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (3) in relation to the laying of a copy of accounts or a report as it applies in relation to the laying of a statutory document under an enactment.”

(2) The following provisions of section 48A (as inserted by sub-paragraph (1) above) do not apply in relation to any accounts that are, in accordance with a direction under section 45(2) given before the coming into force of this Order, required to be prepared for any period ending before the coming into force of this Order—

(a) subsection (3) so far as it applies for the purposes of section 45;

(b) subsections (6) and (8).

Child Abduction and Custody Act 1985

35. Amend the Child Abduction and Custody Act 1985⁽²⁴⁾ as follows.

36. In section 3 (Central authorities)—

(a) in subsection (1)(a) omit “and in Northern Ireland”;

(b) after subsection (1)(b) insert—

“; and

(c) in Northern Ireland by the Department of Justice in Northern Ireland”;

(c) for subsection (3) substitute—

“(3) Where any such application relates to a function to be discharged under subsection (1) above by an authority (“the responsible authority”) other than the authority to which the application is addressed, the authority to which the application is addressed shall transmit it to the responsible authority.”

37. In sections 6, 21 and 23 (reports) after “Lord Chancellor” (wherever occurring) insert “, the Department of Justice in Northern Ireland”.

38. In section 14 (Central authorities)—

(a) in subsection (1)(a) omit “and in Northern Ireland”;

(b) after subsection (1)(b) insert—

“; and

(c) in Northern Ireland by the Department of Justice in Northern Ireland”;

(24) 1985 c.60.

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(c) for subsection (3) substitute—

“(3) Where any such application relates to a function to be discharged under subsection (1) above by an authority (“the responsible authority”) other than the authority to which the application is addressed, the authority to which the application is addressed shall transmit it to the responsible authority.”

39. In section 16 (registration of decisions) for subsection (5) substitute—

“(5) Where an authority mentioned in subsection (1) of section 14 above is requested to assist in making an application under this section to the appropriate court in a part of the United Kingdom (“the relevant part of the United Kingdom”) other than the part in relation to which the authority has functions under that subsection, the authority shall transmit the request to the authority which has functions under that subsection in relation to the relevant part of the United Kingdom.”

Multilateral Investment Guarantee Agency Act 1988

40.—(1) Amend the Multilateral Investment Guarantee Agency Act 1988(**25**) as follows.

(2) In section 8 (Northern Ireland) after subsection (2) insert—

“(2A) In section 6—

- (a) for the reference to the Lord Chancellor there shall be substituted a reference to the Department of Justice in Northern Ireland;
- (b) for the reference to the making of an order by statutory instrument there shall be substituted a reference to the making of an order by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.”

Child Support Act 1991

41. Amend the Child Support Act 1991(**26**) as follows.

42. In paragraph 2 of Schedule 4(**27**) (remuneration of Child Support Commissioners for Northern Ireland)—

(a) in sub-paragraph (1)—

- (i) for “Lord Chancellor may” substitute “Department of Justice shall”;
- (ii) for “he” substitute “the Lord Chancellor”;

(b) in sub-paragraph (2) for “Lord Chancellor” substitute “Department of Justice”.

Social Security Administration Act 1992

43. Amend the Social Security Administration Act 1992(**28**) as follows.

44. In section 24 (appeal from Commissioners on point of law) after subsection (6) insert—

“(6A) In the application of this section in relation to Northern Ireland, subsection (6) shall have effect as if for “the Lord Chancellor” there were substituted “the Department of Justice in Northern Ireland”.

(25) 1988 c.8. Relevant amendments are made by the Arbitration Act 1996 (c. 23), section 107 and Schedule 3, paragraph 49, and Schedule 4.

(26) 1991 c.48.

(27) Paragraph 2(1) and (2) was amended by S.I. 2008/2833.

(28) 1992 c.5.

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(6B) Regulations made under this section by the Department of Justice in Northern Ireland shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

- 45.**—(1) Amend section 189 (regulations and orders) as follows.
(2) At the end of subsection (2) insert “(subject to section 24(6A))”.
(3) At the end of subsection (3) insert “(subject to section 24(6B))”.

Social Security Administration (Northern Ireland) Act 1992

- 46.** Amend the Social Security Administration (Northern Ireland) Act 1992(**29**) as follows.
47. In section 166 (Assembly etc control of orders and regulations)—
(a) in subsection (5) omit “the Lord Chancellor,” and omit the words from “(in the case of” to the end;
(b) after subsection (5) insert—
“(5A) All regulations made under this Act by the Department of Justice shall be subject to negative resolution.”

Tribunals and Inquiries Act 1992

- 48.**—(1) Amend the Tribunals and Inquiries Act 1992(**30**) as follows.
(2) In section 9 (procedure in connection with statutory inquiries) at the end insert—
“(6) In the application of this section to inquiries held in Northern Ireland, the power to make rules is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor) so far as the power may be used to make Northern Ireland devolved provision.”
(3) In section 10 (reasons to be given for decisions of tribunals and Ministers) after subsection (8) insert—
“(9) In relation to—
(a) any tribunal specified in Schedule 1 which sits in Northern Ireland, and
(b) statutory inquiries held in Northern Ireland,
the power to make an order under subsection (7) or (8) is exercisable by the Department of Justice in Northern Ireland (and not by any Minister of the Crown) so far as the power may be used to make Northern Ireland devolved provision; and those subsections are to be read accordingly.”
(4) In section 13 (power to apply Act to additional tribunals etc) after subsection (5) insert—
“(5A) In relation to Northern Ireland, any power to make an order under this section is exercisable by the Department of Justice in Northern Ireland (and not by any Minister of the Crown) so far as the power may be used to make Northern Ireland devolved provision; and this section is to be read accordingly.”
(5) In section 15 (rules and orders), the existing provision becomes subsection (1), and after that subsection insert—

(29) 1992 c.8. Section 165 was amended by the Tax Credits Act 2002 (c. 21), Schedule 4, paragraph 10. Section 166 was amended by S.I. 1999/671; the Tax Credits Act 2002 (c. 21), Schedule 4, paragraph 11. Other amendments have been made to those sections, but none are relevant.

(30) 1992 c.53.

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“(2) Any rules or orders made by the Department of Justice in Northern Ireland under this Act shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(31) and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(32).”

(6) In section 16(1) (interpretation), at the appropriate place, insert—

““Northern Ireland devolved provision” means provision which could be made by an Act of the Northern Ireland Assembly without the consent of the Secretary of State (see sections 6 to 8 of the Northern Ireland Act 1998),”.

(7) In section 16 (interpretation) after subsection (2) insert—

“(2A) In relation to inquiries or hearings held or to be held in Northern Ireland, the power to make an order under subsection (2) is exercisable by the Department of Justice in Northern Ireland (and not by any Minister of the Crown) so far as the power may be used to make Northern Ireland devolved provision; and subsection (2) is to be read accordingly.”

Judicial Pensions and Retirement Act 1993

49. After section 28 of the Judicial Pensions and Retirement Act 1993(33) insert—

“28A Northern Ireland

28A. The Lord Chancellor and the Department of Justice in Northern Ireland may make arrangements under which the Department is to make contributions to the cost of the liabilities under this Act for pensions, lump sums or other payments in respect of persons’ service in qualifying judicial office in Northern Ireland.”

Arbitration Act 1996

50.—(1) Amend the Arbitration Act 1996(34) as follows.

(2) In section 105(6) (jurisdiction of High Court and county court) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

Defamation Act 1996

51. Amend the Defamation Act 1996(35) as follows.

52. In section 9 (meaning of summary relief)—

(a) in subsection (3) at the beginning insert “Subject to subsection (4)”;

(b) after subsection (3) insert—

“(4) Any order made by the Department of Justice in Northern Ireland under subsection (1)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(36), and shall be subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(37).”

(31) S.I. 1979/1573 (N.I. 12).

(32) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

(33) 1993 c. 8.

(34) 1996 c. 23. Section 105 was amended by the Constitutional Reform Act 2005 (c. 4), Schedule 4, paragraph 250.

(35) 1996 c.31. Relevant amendments are made by the Constitutional Reform Act 2005 (c. 4), section 15 and Schedule 4, paragraph 255.

(36) S.I. 1979/1573 (N.I. 12).

(37) 1954 c. 33 (N.I.). Section 41(6) was amended by S.I. 1999/663.

- 53.** In Schedule 1 (qualified privilege)—
- (a) in paragraph 15—
 - (i) for sub-paragraph (1)(a) substitute—

“(a) for England and Wales, by order of the Lord Chancellor,”;
 - (ii) after sub-paragraph (1)(b) insert—

“, and
 - (c) for Northern Ireland, by order of the Department of Justice in Northern Ireland”;
 - (iii) in sub-paragraph (2) at the beginning insert “Subject to sub-paragraph (3),”;
 - (iv) after sub-paragraph (2) insert—

“(3) An order under sub-paragraph (1)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”;
 - (b) in paragraph 17—
 - (i) for sub-paragraph (2)(a) substitute—

“(a) for England and Wales, by the Lord Chancellor,”;
 - (ii) after sub-paragraph (2)(b) insert—

“, and
 - (c) for Northern Ireland, by the Department of Justice in Northern Ireland”;
 - (iii) in sub-paragraph (3) at the beginning insert “Subject to sub-paragraph (4),”;
 - (iv) after sub-paragraph (3) insert—

“(4) An order under sub-paragraph (2)(c) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 and subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

Damages Act 1996

- 54.** Amend the Damages Act 1996⁽³⁸⁾ as follows.
- 55.** In section 1 (assumed rate of return on investment of damages) after subsection (5) insert—
- “(6) In the application of this section to Northern Ireland—
- (a) for the reference to the Lord Chancellor in subsections (1) and (4) there is substituted a reference to the Department of Justice in Northern Ireland; and
 - (b) in subsection (4)—
 - (i) for the reference to the Treasury there is substituted a reference to the Department of Finance and Personnel in Northern Ireland; and
 - (ii) for “by statutory instrument” to “Parliament” there is substituted “by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979, and is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

⁽³⁸⁾ 1996 c.48. Section 1(5) was substituted by *S.I. 1999/1820*. Sections 2A and 2B were inserted by section 100 of the Courts Act 2003 (c.39). Section 2A was amended by *S.I. 2005/1452 (N.I. 7)*.

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- 56.** In section 2A (periodical payments: supplementary) in subsection (6)—
- (a) at the end of paragraph (a) omit “and”;
 - (b) after paragraph (b) insert—
 - “(c) a reference to the Lord Chancellor shall be taken as a reference to the Department of Justice in Northern Ireland, and
 - (d) for subsection (3)(a) and (b) of this section there is substituted “shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979; and is subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.”
- 57.** In section 2B (variation of orders and settlements) after subsection (7) insert—
- “(8) In the application of this section to Northern Ireland—
 - (a) a reference to the Lord Chancellor shall be taken as a reference to the Department of Justice in Northern Ireland;
 - (b) in subsection (6)(a) for “statutory instrument” substitute “statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(39)”;
 - (c) in subsection (6)(c) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
 - (d) section 41(3) of the Interpretation Act (Northern Ireland) 1954(40) applies for the purposes of subsection (6)(c) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

Northern Ireland Act 1998

- 58.**—(1) Amend the Northern Ireland Act 1998(41) as follows.
- (2) In paragraph 39(6) of Schedule 10 (devolution issues: bail and legal aid in criminal proceedings) omit “out of money provided by Parliament”.

Tax Credits Act 2002

- 59.** Amend the Tax Credits Act 2002(42) as follows.
- 60.** In section 65(6) (regulations, orders and schemes) after “Lord Chancellor” insert “, the Department of Justice in Northern Ireland”.

Justice (Northern Ireland) Act 2002

- 61.** Amend the Justice (Northern Ireland) Act 2002(43) as follows.
- 62.** In section 9F(44) (procedure for reports by Northern Ireland Judicial Appointments Ombudsman)—
- (a) for subsection (2)(a) and (b) substitute—
 - “(a) if the complaint was a Commission complaint, to the First Minister and deputy First Minister and to the Commission;

(39) S.I. 1979/1573 (N.I. 12).

(40) Section 41(3) was substituted by S.I. 1999/663.

(41) 1998 c. 47.

(42) 2002 c.21.

(43) 2002 c.26. Relevant amendments were made by the Justice (Northern Ireland) Act 2004 (c.4).

(44) Section 9F was inserted by section 129 of the Constitutional Reform Act 2005 (c. 4).

- (b) otherwise, to the Lord Chancellor.”;
- (b) in subsection (3)(a) for the words from “by the Lord Chancellor” to the end substitute “for changes in the draft report which is made—
- (i) if the complaint was a Commission complaint, by the First Minister and deputy First Minister acting jointly or by the Commission;
- (ii) otherwise, by the Lord Chancellor;”;
- (c) in subsection (5) for “Lord Chancellor and” substitute “First Minister and deputy First Minister and to”.
- 63.** In section 47(**45**) (further provision about functions of Chief Inspector of Criminal Justice)—
- (a) in subsection (1) omit “, the Lord Chancellor”;
- (b) in subsection (2) omit paragraph (aa);
- (c) omit subsections (5A) and (5B).
- 64.** In section 49(**46**) (reports by Chief Inspector of Criminal Justice) omit subsection (6).
- 65.** In section 50 (Northern Ireland Law Commission) omit subsection (5)(a).
- 66.** In section 73 (constitution of Rules Committee)—
- (a) in subsection (1), in the inserted paragraphs (d), (e) and (f) of section 54(1) of the Judicature (Northern Ireland) Act 1978(**47**), for “Lord Chancellor” substitute “Department of Justice”;
- (b) in subsection (2), in the amendment of Article 46(1) of the County Courts (Northern Ireland) Order 1980(**48**)—
- (i) in the inserted sub-paragraphs (d), (e) and (g) for “Lord Chancellor” substitute “Department of Justice”;
- (ii) in the inserted sub-paragraph (f) for “the Lord Chancellor” substitute “that Department”.
- 67.—**(1) Amend Schedule 2 (Judicial Appointments Commission) as follows.
- (2) After paragraph 4(2) insert—
- “(2A) Employment as a member of staff of the Commission is among the kinds of employment to which a scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972(**49**) can apply; and accordingly, in Schedule 1 to that Order (kinds of employment etc. referred to in Article 3), at the appropriate place in the list of “Other Bodies” insert—
- “Employment by the Northern Ireland Judicial Appointments Commission.”.”
- (3) Omit paragraph 4(3)(**50**) (and the Superannuation Act 1972(**51**) has effect accordingly).
- (4) Sub-paragraph (3) above does not affect the position of any person under the Superannuation Act 1972 in relation to the person’s employment by the Northern Ireland Judicial Appointments Commission before the coming into force of this Order.

(45) Section 47 was amended by section 45 of the Justice and Security (Northern Ireland) Act 2007 (c.6).

(46) Section 49(6) was inserted by section 45 of the Justice and Security (Northern Ireland) Act 2007 (c. 6).

(47) 1978 c. 23.

(48) S.I. 1980/397 (N.I. 3).

(49) S.I. 1972/1073 (N.I. 10).

(50) Paragraph 4(3) was substituted by the Justice (Northern Ireland) Act 2004 (c.4), section 1 and Schedule 1, paragraph 5.

(51) 1972 c. 11.

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(5) Sub-paragraph (6) below applies in relation to a person who immediately before the coming into force of this Order is, by virtue of paragraph 4(3) of Schedule 2 to the Justice (Northern Ireland) Act 2002⁽⁵²⁾, a participant in the principal civil service pension scheme as defined in section 2(10) of the Superannuation Act 1972.

(6) In relation to the person's employment by the Northern Ireland Judicial Appointments Commission after the coming into force of this Order, the person is entitled to be a participant in the principal civil service pension scheme as defined in Article 4(10) of the Superannuation (Northern Ireland) Order 1972⁽⁵³⁾; and the person's terms and conditions of service have effect accordingly.

(7) In paragraph 5—

- (a) in sub-paragraph (6) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (b) in sub-paragraph (7) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (c) after sub-paragraph (7) insert—

“(7A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁵⁴⁾ applies for the purposes of sub-paragraph (6) in relation to the laying of a copy of an annual report as it applies in relation to the laying of a statutory document under an enactment.”

(8) In paragraph 7—

- (a) in sub-paragraph (2) for “Lord Chancellor directs” substitute “First Minister and deputy First Minister acting jointly direct”;
- (b) in sub-paragraph (3) for “Lord Chancellor” (in both places) substitute “Office of the First Minister and deputy First Minister”;
- (c) in sub-paragraphs (3)(b) and (4) for “Comptroller and Auditor General” substitute “Comptroller and Auditor General for Northern Ireland”;
- (d) in sub-paragraph (4)(b) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (e) after sub-paragraph (4) insert—

“(4A) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4) in relation to the laying of a copy of a statement of accounts or report as it applies in relation to the laying of a statutory document under an enactment.”

(9) Sub-paragraph (8) above does not apply in relation to a financial year ending before the coming into force of this Order.

68. In paragraph 15 of Schedule 3A (reports of Northern Ireland Judicial Appointments Ombudsman)—

- (a) in sub-paragraph (4) for “each House of Parliament” substitute “the Northern Ireland Assembly”;
- (b) after sub-paragraph (5) insert—

“(6) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of sub-paragraph (4) in relation to the laying of a copy of a report as it applies in relation to the laying of a statutory document under an enactment.”

⁽⁵²⁾ 2002 c. 26

⁽⁵³⁾ S.I. 1972/1073 (N.I. 10).

⁽⁵⁴⁾ 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

Courts Act 2003

69.—(1) Amend the Courts Act 2003(**55**) as follows.

(2) In section 102(8) (power to alter judicial titles: Northern Ireland) for the words from “annulment” to “accordingly” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

(3) In section 108 (rules, regulations and orders) omit subsection (7)(b).

(4) In section 109 (minor and consequential amendments etc) after subsection (8) insert—

“(9) Any order made by the Department of Justice in Northern Ireland under subsection (4) shall be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**56**).

(10) No order containing any provision (whether alone or with other provisions) amending or repealing any Act or provision of an Act may be made by the Department of Justice in Northern Ireland under subsection (4) unless a draft has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(11) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**57**) applies for the purposes of subsection (10) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.

(12) Any other order made by the Department of Justice under subsection (4) is subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**58**)).”

Extradition Act 2003

70.—(1) Amend the Extradition Act 2003(**59**) as follows.

(2) In sections 61 and 134 (costs where discharge ordered) after subsection (8) insert—

“(9) In relation to proceedings in Northern Ireland (including proceedings in the Supreme Court on an appeal, or on an application for leave to appeal, from proceedings in Northern Ireland)—

(a) subsection (5) has effect as if for “out of money provided by Parliament” there were substituted “by the Department of Justice in Northern Ireland”;

(b) the power to make regulations under subsection (8)(b) is exercisable by the Department of Justice in Northern Ireland (and not by the Lord Chancellor).”

(3) In sections 67(1)(c) and 139(1)(c) (appropriate judge) for “Lord Chancellor” substitute “Department of Justice in Northern Ireland”.

(4) In section 185(4) (free legal aid: supplementary) for “Lord Chancellor” substitute “Department of Justice in Northern Ireland”.

(5) In section 223 (orders and regulations)—

(a) in subsection (4) after “instrument” insert “(subject to subsection (10))”;

(55) 2003 c.39. Section 102 was amended by the Constitutional Reform Act 2005 (c. 4), section 15, Schedule 4, paragraph 346 and section 59, Schedule 11, paragraph 6; section 47 of the Justice and Security (Northern Ireland) Act 2007. Section 109 was amended by the Constitutional Reform Act 2005 (c. 4), section 15, Schedule 4, paragraph 349.

(56) S.I. 1979/1573 (N.I. 12).

(57) 1954 c. 33 (N.I.). Section 41(3) was substituted by S.I. 1999/663.

(58) Section 41(6) was amended by S.I. 1999/663.

(59) 2003 c. 41. Sections 61 and 134 were amended by the Constitutional Reform Act 2005 (c. 4), section 40, Schedule 9, paragraph 81. Sections 67 and 139 were amended by the Constitutional Reform Act 2005 (c. 4), section 15, Schedule 4, paragraphs 353 and 354. Section 185 was prospectively repealed by S.I. 2005/1965. There are other amendments to the Act, but none relevant.

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(b) after subsection (9) insert—

“(10) The power of the Department of Justice in Northern Ireland to make regulations under section 61(8)(b) or 134(8)(b) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(60).

(11) Regulations made by the Department of Justice are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954).”

Justice (Northern Ireland) Act 2004

71.—(1) Amend Schedule 3 to the Justice (Northern Ireland) Act 2004(61) (court security) as follows.

(2) In paragraph 1(3)(a) for “the Lord Chancellor” substitute “that Department”.

(3) In paragraph 1(4) for “Lord Chancellor” substitute “Department of Justice”.

(4) In paragraph 3(6)(d) for “the Lord Chancellor” substitute “that Department”.

(5) In paragraph 5A(5) for “Lord Chancellor” substitute “Department of Justice”.

(6) In paragraph 6(1) for “Lord Chancellor” substitute “Department of Justice”.

Civil Partnership Act 2004

72. Amend the Civil Partnership Act 2004(62) as follows.

73. In section 219 (dissolution etc: power to make provision corresponding to EC Regulation 2201/2003)—

(a) in subsection (1)(a) and (b) omit “or Northern Ireland”;

(b) after subsection (1) insert—

“(1A) The Department of Justice in Northern Ireland may by regulations make provision—

(a) as to the jurisdiction of courts in Northern Ireland in proceedings for the dissolution or annulment of a civil partnership or for legal separation of the civil partners in such cases as are mentioned in subsection (1)(a), and

(b) as to the recognition in Northern Ireland of any such judgment as is mentioned in subsection (1)(b).”;

(c) in subsection (5) after “(1)(b)” insert “, (1A)(b)”;

(d) after subsection (6) insert—

“(6A) Regulations under subsection (1A) are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

(6B) No regulations shall be made under subsection (1A) unless a draft has been laid before and approved by resolution of the Northern Ireland Assembly.

(6C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954 applies for the purposes of subsection (6B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

(60) S.I. 1979/1573 (N.I. 12).

(61) 2004 c. 4; to which there are amendments not relevant to this Schedule.

(62) 2004 c. 33; Relevant amendments are made to Schedule 15 by the Pensions (No. 2) Act (Northern Ireland) 2008 (c. 13) (N.I.), Schedule 5. Relevant amendments are made to Schedule 16 by S.I. 2006/1945 (N.I. 14) and S.I. 2006/1016.

- 74.** In section 237 (supplementary provisions relating to recognition of dissolution etc)—
- (a) in subsection (2) after “Lord Chancellor” insert “, the Department of Justice in Northern Ireland”;
 - (b) in subsection (3) after “power” insert “of the Lord Chancellor or the Scottish Ministers”;
 - (c) after subsection (4) insert—
 - “(4A) The power of the Department of Justice in Northern Ireland to make regulations under subsection (2) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979.
 - (4B) Regulations made by the Department of Justice under subsection (2) are subject to negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954.”

75.—(1) Amend Schedule 15 (financial relief in the High Court or a county court etc: Northern Ireland) as follows.

(2) In paragraph 14(4) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

(3) In paragraph 23(4) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

(4) In paragraph 31(3) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

(5) In paragraph 50(5) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

76. In paragraph 2(4) of Schedule 16 (financial relief in court of summary jurisdiction: Northern Ireland) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

77. In paragraph 14(6) of Schedule 17 (financial relief in Northern Ireland after overseas dissolution etc of civil partnership) for the words from “annulment” to “accordingly” substitute “negative resolution within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954”.

Constitutional Reform Act 2005

78. Amend paragraph 4 of Schedule 7 to the Constitutional Reform Act 2005(**63**) (protected functions of the Lord Chancellor) as follows.

79. In Part A omit the entries for—

- (a) section 25(3)(c) of the Administration of Justice Act 1982(**64**);
- (b) section 91(3)(c) of the Arbitration Act 1996(**65**).

80. In Part B under the heading of the Child Support (Northern Ireland) Order 1991(**66**)—

- (a) omit the entries for Articles 25(6)(a) and (7), 26(2)(a), (3)(c) and (5), 48(1) and 51(1);
- (b) for “Schedule 4, paragraphs 1, 1A, 3A(1) and 4” substitute “Schedule 4, paragraph 4”.

81. In Part B omit the entries for—

(63) 2005 c. 4. Paragraph 4 of Schedule 7 was amended by the Northern Ireland Act 2009 (c. 3), Schedule 5, paragraph 7. There are other amendments to Schedule 7, and to other provisions of the Act, but none are relevant.

(64) 1982 c. 53.

(65) 1996 c. 23.

(66) S.I. 1991/2628 (N.I. 23).

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- (a) sections 1, 5A and 11(3) of the Coroners Act (Northern Ireland) 1959**(67)**;
- (b) section 19(3) of the Registration of Deeds Act (Northern Ireland) 1970**(68)**;
- (c) sections 53(1)(f) and (2), 54(1), (5) and (6), 56(4), 68(3), (5) and (6), 75(1), (7) and (9), 82(1) and 116(1) and (2) of the Judicature (Northern Ireland) Act 1978**(69)**;
- (d) Article 33(4C) of the Matrimonial Causes (Northern Ireland) Order 1978**(70)**;
- (e) Articles 2(2), 46(1)(d) to (g), 46(4) and (5) and 59 of the County Courts (Northern Ireland) Order 1980**(71)**;
- (f) Articles 6A(3), 10(1), 13(5) and 24(7) of the Magistrates' Courts (Northern Ireland) Order 1981**(72)**;
- (g) Article 6(2) of the Forfeiture (Northern Ireland) Order 1982**(73)**;
- (h) Article 104(5) of the Mental Health (Northern Ireland) Order 1986**(74)**;
- (i) sections 22(6), 165(2) and 167(1) of, and paragraph 7 of Schedule 2 to, the Social Security Administration (Northern Ireland) Act 1992**(75)**;
- (j) paragraphs 2(1)(g), 6 and 9 of Schedule 2 to the Family Law (Northern Ireland) Order 1993**(76)**;
- (k) Articles 164(5), 181 and 183(3) of the Children (Northern Ireland) Order 1995**(77)**;
- (l) Articles 36(1) and 40(1) and (2) of the Family Homes and Domestic Violence (Northern Ireland) Order 1998**(78)**;
- (m) Article 7(8) of the Road Traffic (New Drivers) (Northern Ireland) Order 1998**(79)**;
- (n) Articles 15(12) and (13) and 74(2) of the Social Security (Northern Ireland) Order 1998**(80)**;
- (o) Article 40(7)(b) of the Fair Employment and Treatment (Northern Ireland) Order 1998**(81)**;
- (p) paragraph 20(1) and (6) of Schedule 7 to the Child Support, Pensions and Social Security Act (Northern Ireland) 2000**(82)**;
- (q) sections 2(2), 3(2)(b), 19(4), 50(5) and 51(3) of, and paragraphs 1(2) and (3), 2(3) and (4), 3, 4(1), 5(5) and (6), 6 and 7(2) and (3) of Schedule 2 to, the Justice (Northern Ireland) Act 2002**(83)**;
- (r) paragraph 1(3)(a) of Schedule 3 to the Justice (Northern Ireland) Act 2004**(84)**.

(67) 1959 c. 15 (N.I.).

(68) 1970 c. 25 (N.I.).

(69) 1978 c. 23.

(70) S.I. 1978/1045 (N.I. 15).

(71) S.I. 1980/397 (N.I. 3).

(72) S.I. 1981/1675 (N.I. 26).

(73) S.I. 1982/1082 (N.I. 14).

(74) S.I. 1986/595 (N.I. 4).

(75) 1992 c. 8.

(76) S.I. 1993/1576 (N.I. 6).

(77) S.I. 1995/755 (N.I. 2).

(78) S.I. 1998/1071 (N.I. 6).

(79) S.I. 1998/1074 (N.I. 7).

(80) S.I. 1998/1506 (N.I. 10).

(81) S.I. 1998/3162 (N.I. 21).

(82) 2000 c. 4 (N.I.).

(83) 2002 c. 26.

(84) 2004 c. 4.

Forced Marriage (Civil Protection) Act 2007

82.—(1) Amend paragraph 14 of Schedule 1 to the Forced Marriage (Civil Protection) Act 2007⁽⁸⁵⁾ (protection against forced marriage: Northern Ireland) as follows.

(2) In sub-paragraph (2)(d) for the words from “annulment” to “accordingly)” substitute “negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954)”.

(3) In sub-paragraph (3)(d) for “each House of Parliament” substitute “the Northern Ireland Assembly”.

(4) After sub-paragraph (3) insert—

“(4) Section 41(3) of the Interpretation Act (Northern Ireland) 1954⁽⁸⁶⁾ applies for the purposes of sub-paragraph (3) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

Criminal Justice and Immigration Act 2008

83. Amend the Criminal Justice and Immigration Act 2008⁽⁸⁷⁾ as follows.

84. In section 82(4)(a) and (b)(vi) (requests to other member States: Northern Ireland) for “Lord Chancellor” substitute “Department of Justice”.

85. In section 83 (procedure on issue of certificate: Northern Ireland)—

(a) omit subsection (2);

(b) in subsection (3) for the words from the beginning to “those documents” substitute “The Department of Justice must give the documents mentioned in subsection (3A)”;

(c) after subsection (3) insert—

“(3A) The documents are—

(a) the certificate;

(b) a certified copy of the decision requiring payment of the financial penalty.”;

(d) in subsection (4) for “Lord Chancellor” substitute “Department of Justice”.

86. In section 84 (requests from other member States: England and Wales) after subsection (6) insert—

“(7) Where the documents mentioned in subsection (1)(a) are given to the Lord Chancellor by the Department of Justice under section 90A, this section applies as if the competent authority or central authority of the other member State gave the documents to the Lord Chancellor.”

87. In section 87 (requests from other member States: Northern Ireland)—

(a) in subsections (1), (2), (3), (4) and (6) for “Lord Chancellor” (wherever occurring) substitute “Department of Justice”;

(b) after subsection (6) insert—

“(7) Where the documents mentioned in subsection (1)(a) are given to the Department of Justice by the Lord Chancellor under section 90A, this section applies as if the competent authority or central authority of the other member State gave the documents to the Department of Justice.”

⁽⁸⁵⁾ 2007 c. 20.

⁽⁸⁶⁾ Section 41(3) was substituted by S.I. 1999/663.

⁽⁸⁷⁾ 2008 c. 4.

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88. In section 88(1) and (4) (procedure on receipt of certificate by clerk of petty sessions) for “Lord Chancellor” substitute “Department of Justice”.

89. In section 89(5) (modification of the Magistrates’ Courts (Northern Ireland) Order 1981(**88**)), in the modification of Article 95 of that Order, for “Lord Chancellor” substitute “Department of Justice”.

90. In section 90 (transfer of certificates to central authority for Scotland)—

- (a) in subsection (1)(a) after “Lord Chancellor” insert “or the Department of Justice”;
- (b) for subsection (1)(b) substitute—
 - “(b) the financial penalty is not suitable for enforcement in England and Wales or Northern Ireland for the purposes of section 84(1) or 87(1).”;
- (c) in subsection (2) for the words from “Lord Chancellor” to the end substitute
 - “documents must be given to the central authority for Scotland—
 - (a) in a case to which paragraph 6 of Schedule 18 applies, by the Lord Chancellor;
 - (b) in a case to which paragraph 7 of Schedule 18 applies, by the Department of Justice;
 - (c) in any other case, by whoever was given the documents by the competent authority or central authority of the other member State”.

91. After section 90 insert—

“90A Transfer of certificates by Department of Justice to Lord Chancellor and vice versa

- (1) Subsection (2) applies where—
 - (a) the competent authority or central authority of a member State other than the United Kingdom gives the Department of Justice—
 - (i) a certificate requesting enforcement under the Framework Decision on financial penalties, and
 - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, or
 - (b) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Department of Justice.
- (2) The Department of Justice must give the documents to the Lord Chancellor if—
 - (a) it is a case to which paragraph 6 of Schedule 18 applies, or
 - (b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in England and Wales for the purposes of section 84(1).
- (3) Subsection (4) applies where—
 - (a) the competent authority or central authority of a member State other than the United Kingdom gives the Lord Chancellor—
 - (i) a certificate requesting enforcement under the Framework Decision on financial penalties, and

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- (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates, or
- (b) the competent authority or central authority of a member State other than the United Kingdom gives the central authority for Scotland the documents mentioned in paragraph (a) and the central authority for Scotland, without taking any action to enforce the financial penalty in Scotland, gives the documents to the Lord Chancellor.
- (4) The Lord Chancellor must give the documents to the Department of Justice if—
 - (a) it is a case to which paragraph 7 of Schedule 18 applies, or
 - (b) other than by virtue of that paragraph, the financial penalty is suitable for enforcement in Northern Ireland for the purposes of section 87(1).”

92.—(1) Amend section 91 (recognition of financial penalties: general) as follows.

(2) After subsection (4) insert—

“(5) In the application of this section to Northern Ireland, in subsection (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.”

93. In section 92(1) (interpretation), at the appropriate place, insert—

““Department of Justice” means the Department of Justice in Northern Ireland;”.

94. In section 147 (orders, rules and regulations)—

(a) after subsection (1) insert—

“(1A) Orders made by the Department of Justice in Northern Ireland under this Act are to be made by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979(**89**).”;

(b) in subsection (2) for “such orders or regulations” substitute “orders or regulations falling within subsection (1) or (1A)”;

(c) in subsection (5)(d) omit “, 83(4)”;

(d) after subsection (5) insert—

“(5A) Subject to subsection (5B), orders made by the Department of Justice in Northern Ireland under this Act are subject to negative resolution (within the meaning of section 41(6) of the Interpretation Act (Northern Ireland) 1954(**90**)).

(5B) Subsection (5A) does not apply to an order made by the Department of Justice containing (whether alone or with other provision) provision under section 83(4) or 91(3) which amends or repeals any provision of an Act; and no such order may be made by the Department unless a draft of it has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

(5C) Section 41(3) of the Interpretation Act (Northern Ireland) 1954(**91**) applies for the purposes of subsection (5B) in relation to the laying of a draft as it applies in relation to the laying of a statutory document under an enactment.”

95.—(1) Amend Schedule 18 (penalties suitable for enforcement in England and Wales or Northern Ireland) as follows.

(2) In paragraph 5—

(89) [S.I. 1979/1573 \(N.I. 12\)](#).

(90) [1954 c. 33 \(N.I.\)](#). Section 41(6) was amended by [S.I. 1999/663](#).

(91) Section 41(3) was substituted by [S.I. 1999/663](#).

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- (a) in sub-paragraph (2) for “The” substitute “If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Department of Justice under section 90A), the”;
- (b) after sub-paragraph (3) insert—
 - “(4) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless it is suitable for enforcement in England and Wales by virtue of sub-paragraph (5).
 - (5) The financial penalty is suitable for enforcement in England and Wales if the Department of Justice thinks that it is more appropriate for the penalty to be enforced in England and Wales than in Northern Ireland.”
- (3) In paragraph 6—
 - (a) in sub-paragraph (2) after “(3)” insert “or (4)”;
 - (b) in sub-paragraph (3)(a) after “Scotland” insert “or by the Department of Justice under section 90A”;
 - (c) after sub-paragraph (3) insert—
 - “(4) This sub-paragraph applies if—
 - (a) the Lord Chancellor was given the certificate by the Department of Justice under section 90A,
 - (b) the Department of Justice was not given the certificate by the central authority for Scotland, and
 - (c) the Lord Chancellor thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in England and Wales.”
- (4) In paragraph 7—
 - (a) in sub-paragraph (2) after “(3)” insert “or (4)”;
 - (b) in sub-paragraph (3)(a) and (b) for “Lord Chancellor” substitute “Department of Justice”;
 - (c) in sub-paragraph (3)(a) after “Scotland” insert “or by the Lord Chancellor under section 90A”;
 - (d) after sub-paragraph (3) insert—
 - “(4) This sub-paragraph applies if—
 - (a) the Department of Justice was given the certificate by the Lord Chancellor under section 90A,
 - (b) the Lord Chancellor was not given the certificate by the central authority for Scotland, and
 - (c) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland.”
- (5) In paragraph 8—
 - (a) in sub-paragraph (2) for “The” substitute “If the certificate was given to the Lord Chancellor by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Department of Justice under section 90A), the”;
 - (b) after sub-paragraph (5) insert—

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“(6) If the certificate was given to the Department of Justice by the competent authority or central authority of another member State or by the central authority for Scotland (and not by the Lord Chancellor under section 90A), the financial penalty is suitable for enforcement in Northern Ireland unless—

- (a) it is suitable for enforcement in England and Wales by virtue of sub-paragraph (7) or (8), or
- (b) sub-paragraph (9) applies.

(7) The financial penalty is suitable for enforcement in England and Wales if—

- (a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and
- (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland or Scotland.

(8) The financial penalty is suitable for enforcement in England and Wales if—

- (a) the Department of Justice was given the certificate by the central authority for Scotland, and
- (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in England and Wales than in Northern Ireland.

(9) This sub-paragraph applies if—

- (a) the Department of Justice was given the certificate by the competent authority or central authority of another member State (and not by the central authority for Scotland), and
- (b) the Department of Justice thinks that it is more appropriate for the financial penalty to be enforced in Scotland than in Northern Ireland or England and Wales.”

96. In paragraph 7 of Schedule 19 after sub-paragraph (3) insert—

“(4) In the application of this Schedule to Northern Ireland, in sub-paragraph (3) the reference to the Lord Chancellor is to be read as a reference to the Department of Justice.”

Northern Ireland Act 2009

97.—(1) Amend the Northern Ireland Act 2009⁽⁹²⁾ as follows.

(2) Omit paragraph 18 of Schedule 4 (amendment of section 119 of the Judicature (Northern Ireland) Act 1978).

(92) 2009 c. 3.