

Northern Ireland Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Northern Ireland Office, are published separately as Bill 169 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Mr Secretary Hain has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Northern Ireland Bill are compatible with the Convention rights.

Northern Ireland Bill

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TO

Make provision for preparations for the restoration of devolved government in Northern Ireland and for the selection of persons to be Ministers on such restoration; to make provision as to the consequences of selecting or not selecting such persons; and for connected purposes.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Preparations for restoration of devolved government

- (1) The Secretary of State may refer to the Assembly any of the following matters—
- (a) the election from among its members of persons to hold the offices of First Minister and deputy First Minister on the restoration of devolved government in Northern Ireland, 5
 - (b) the making of nominations from among its members of persons to hold office as Northern Ireland Ministers on such restoration, and
 - (c) such other matters as the Secretary of State thinks fit.
- (2) Schedule 1 contains provision about the Assembly. 10
- (3) Nothing in this Act affects the operation of section 1 of the 2000 Act (suspension of devolved government).
- (4) But subsection (3) is subject to section 2(7) and paragraphs 2 and 3 of Schedule 2.

2 Selection of persons to be Ministers on restoration of devolved government 15

- (1) Schedule 2 shall have effect if (and only if) the Secretary of State—
- (a) is satisfied that each of the following conditions is met, and
 - (b) being so satisfied, notifies the presiding officer or any deputy presiding officer of the Assembly, before 25th November 2006, that he intends to make a restoration order in accordance with Schedule 2 on the date specified in the notification. 20

- (2) Condition 1 is that the Assembly has elected from among its members –
- (a) a person to hold the office of First Minister, and
 - (b) a person to hold the office of deputy First Minister,
- on the coming into force of a restoration order.
- (3) Condition 2 is that persons have been nominated from among the members of the Assembly to hold each of the Ministerial offices on the coming into force of a restoration order. 5
- (4) Condition 3 is that each of the persons elected or nominated under this section has affirmed the terms of the pledge of office in respect of the office for which he has been elected or nominated. 10
- (5) Schedule 3 shall have effect if (and only if) the Secretary of State does not give the notification mentioned in subsection (1) before 25th November 2006.
- (6) In this section “the Ministerial offices” means the Ministerial offices provided for by the determination under section 17(1) of the 1998 Act (Northern Ireland Ministers) having effect immediately before the most recent suspension of the Northern Ireland Assembly by virtue of section 1 of the 2000 Act. 15
- (7) The following provisions of the 2000 Act are subject to this section –
- (a) section 1(4), and
 - (b) paragraph 5 of the Schedule.
- 3 Power to make consequential provision etc 20**
- (1) The Secretary of State may by order made by statutory instrument make –
- (a) any supplementary, incidental or consequential provision, and
 - (b) any transitional or saving provision,
- that he considers necessary or expedient for the purposes of, in consequence of, or for giving full effect to, any provision of this Act. 25
- (2) An order under this section may in particular –
- (a) make different provision for different cases or purposes;
 - (b) amend, repeal or revoke any enactment passed or made on or before 25th November 2006.
- (3) In this section “enactment” includes – 30
- (a) any of sub-paragraphs (2) to (9) of paragraph 3 of Schedule 2,
 - (b) any provision of, or of any instrument made under, Northern Ireland legislation, and
 - (c) any provision of subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)). 35
- 4 Parliamentary procedure for orders under section 3**
- (1) Subsections (3) to (7) have effect in the case of a statutory instrument which contains (alone or with other provisions) an order under section 3 which amends or repeals any provision of – 40
- (a) an Act, or
 - (b) Northern Ireland legislation.

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- (2) Any other statutory instrument containing an order under that section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) A statutory instrument of a description mentioned in subsection (1) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament. 5
- (4) But subsection (3) does not apply if the order declares that the Secretary of State considers it expedient for the order to be made without that approval.
- (5) An order containing a declaration under subsection (4) – 10
- (a) must be laid before Parliament after being made, and
 - (b) ceases to have effect if it is not approved by a resolution of each House of Parliament before the end of the period of 40 days beginning with the date on which it is made.
- (6) Subsection (5)(b) does not prejudice – 15
- (a) anything done as a result of the order before it ceased to have effect, or
 - (b) the making of a new order.
- (7) In calculating the period of 40 days mentioned in subsection (5)(b), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.
- 5 Interpretation** 20
- In this Act –
- “the 1998 Act” means the Northern Ireland Act 1998 (c. 47);
 - “the 2000 Act” means the Northern Ireland Act 2000 (c. 1);
 - “the Assembly” has the meaning given by paragraph 1 of Schedule 1;
 - “First Minister”, “deputy First Minister” and “Northern Ireland Minister” 25
 - have the same meaning as in the 1998 Act;
 - “the pledge of office” has the meaning given by section 16(10) of the 1998 Act;
 - “restoration order” means a restoration order under section 2(2) of the 2000 Act (order restoring devolved government). 30
- 6 Short title**
- This Act may be cited as the Northern Ireland Act 2006.

SCHEDULES

SCHEDULE 1

Section 1

THE ASSEMBLY

The Assembly

- 1 There is to be an Assembly (referred to in this Act as “the Assembly”)— 5
- (a) whose members at any time are to be the persons who are at that time members of the Northern Ireland Assembly, and
 - (b) whose purpose is to take part in preparations for the restoration of devolved government in Northern Ireland.

Meetings 10

- 2 Meetings are to be held at such times and places as the Secretary of State directs.

Presiding officer

- 3 (1) The Secretary of State may— 15
- (a) appoint a presiding officer and no more than three deputy presiding officers, or
 - (b) authorise the Assembly to elect a presiding officer and no more than three deputy presiding officers in such manner as the Secretary of State may specify.
- (2) The Secretary of State may if he thinks fit exercise his powers under sub-paragraph (1)(b) after exercising his powers under sub-paragraph (1)(a) (so that an elected presiding officer and elected deputy presiding officers replace those appointed by him). 20
- (3) The Secretary of State may appoint a person, or authorise the Assembly to elect a person— 25
- (a) to fill any vacancy in the office of presiding officer or deputy presiding officer, or
 - (b) to replace a presiding officer or deputy presiding officer who, in the opinion of the Secretary of State, is unable, unfit or unwilling to perform his functions (whether because of illness or otherwise). 30

Proceedings

- 4 (1) Proceedings are to be conducted in accordance with directions determined by the Secretary of State from time to time and notified to the presiding officer or any deputy presiding officer.

- (2) The provision that may be made by the directions includes provision which corresponds, or is similar, to any provision of standing orders made (or treated as made) under section 41 of the 1998 Act.
- (3) The provision that may be made by the directions for the purposes of the election referred to in section 1(1)(a) of this Act includes provision which corresponds, or is similar, to any provision of section 16 of the 1998 Act. 5
- (4) The provision that may be made by the directions for the purposes of the nominations referred to in section 1(1)(b) of this Act includes provision which corresponds, or is similar, to any provision of section 18 of the 1998 Act. 10
- (5) Sub-paragraphs (2) to (4) do not affect the generality of sub-paragraph (1).

Staff etc

- 5 (1) The Secretary of State must secure the provision of the services of such staff, the use of such premises and such other facilities as he thinks appropriate.
- (2) Expenditure incurred by the Secretary of State by virtue of this paragraph is to be paid out of the Consolidated Fund of Northern Ireland. 15

Privilege

- 6 A written or oral statement made by a member in or for the purposes of the Assembly is to be privileged from action for defamation unless it is proved to have been made with malice. 20

SCHEDULE 2

Section 2(1)

SELECTION OF MINISTERS

Introduction

- 1 (1) This Schedule has effect in accordance with section 2(1).
- (2) In this Schedule “the effective date” means the date on which the restoration order made by virtue of paragraph 2 comes into force. 25

Making of restoration order

- 2 (1) The Secretary of State must make a restoration order on the date specified in the notification under section 2(1).
- (2) The restoration order must come into force on the day following the day on which it is made. 30
- (3) Subsections (2) to (7) of section 3 of the 2000 Act do not apply in relation to the restoration order (and, accordingly, no person who immediately before the most recent suspension held an office mentioned in any of those subsections shall resume that office on the effective date). 35
- (4) On the effective date—
 - (a) the person elected under section 2 of this Act to hold office as First Minister shall become the First Minister,

- (b) the person elected under that section to hold office as deputy First Minister shall become the deputy First Minister, and
- (c) each person nominated under that section to hold office as a Northern Ireland Minister shall become the Northern Ireland Minister concerned; 5
- (and sections 16(1) and 18(1) of the 1998 Act do not apply).
- (5) The affirmation of the terms of the pledge of office under section 2 of this Act by a person to whom sub-paragraph (4) applies shall be deemed to have been made under the 1998 Act on the effective date.
- (6) The person who is presiding officer of the Assembly immediately before the effective date shall be deemed to have been elected as Presiding Officer of the Northern Ireland Assembly under section 39(1) of the 1998 Act on that date. 10
- (7) Each person who is a deputy presiding officer of the Assembly immediately before the effective date shall be deemed to have been elected as a deputy Presiding Officer of the Northern Ireland Assembly under section 39(1) of the 1998 Act on that date. 15
- (8) The provision that may be made by the restoration order by virtue of section 7(2) of the 2000 Act includes provision – 20
- (a) for treating things done under or by virtue of this Act as having been done under or by virtue of the 1998 Act;
- (b) for treating things done by or in relation to the Assembly (or members of that Assembly) as having been done by or in relation to the Northern Ireland Assembly (or members of that Assembly).
- (9) The following provisions of the 2000 Act do not apply in relation to the restoration order – 25
- (a) section 2(3) (taking account of review under Validation, Implementation and Review section of Belfast Agreement), and
- (b) section 7(4) to (7) (affirmative resolution etc procedure).
- (10) In this paragraph “the most recent suspension” means the most recent suspension of the Northern Ireland Assembly by virtue of section 1 of the 2000 Act. 30

Repeal of the 2000 Act on day after restoration order comes into force

- 3 (1) The 2000 Act shall be repealed on the day following the effective date.
- (2) The Northern Ireland Assembly may not make a determination under section 47 of the 1998 Act in respect of any period of suspension. 35
- (3) No instrument made during any period of suspension shall be liable to annulment or capable of being revoked in pursuance of a resolution, motion or address of the Northern Ireland Assembly.
- (4) Neither a restoration order nor the repeal of paragraph 1(1) of the Schedule to the 2000 Act shall affect the operation of any Order in Council made before the effective date under paragraph 1(1) of that Schedule. 40
- (5) References to Acts of the Northern Ireland Assembly in any enactment or instrument (whether passed or made before or after the coming into force of section 1 of the 2000 Act) are to be read, so far as the context permits, as 45

- including references to Orders in Council made under paragraph 1(1) of the Schedule to that Act.
- (6) The repeal of section 6 of the 2000 Act by virtue of this paragraph shall not affect the operation of any order previously made under that section.
- (7) The repeal of section 7 of the 2000 Act by virtue of this paragraph shall not affect the operation of any provision of a restoration order previously made by virtue of subsection (2) of that section. 5
- (8) The repeal of paragraph 9 of the Schedule to the 2000 Act by virtue of this paragraph shall not affect the operation of any determination or provision previously made by virtue of that paragraph. 10
- (9) Subsection (4) of section 44 of the 1998 Act shall continue to include, at the end of that subsection, the words “or during a period when section 1 of the Northern Ireland Act 2000 was in force” (notwithstanding the repeal of section 9(3) of the 2000 Act by virtue of this paragraph).
- (10) In this paragraph – 15
 “instrument” includes a charter, contract or other document;
 “period of suspension” means a period when section 1 of the 2000 Act was in force.
- (11) Sub-paragraphs (2) to (9) are not to be taken as limiting the provision that may be made by an order under section 3 of this Act. 20

Postponement of next Northern Ireland Assembly election to May 2008

- 4 (1) In section 31 of the 1998 Act (Northern Ireland Assembly: dates of elections and dissolutions), for subsection (2) substitute –
- “(2) In relation to the poll for the election of the Assembly next following the Assembly elected at the poll on 26th November 2003, subsection (1) is to have effect as if for “fourth calendar year” there were substituted “fifth calendar year”.” 25
- (2) In section 96 of the 1998 Act –
- (a) in subsection (2), “31(2),” shall be repealed;
- (b) subsections (2A) to (2D) shall be repealed. 30
- (3) The amendments made by this paragraph shall have effect on and after the effective date.

Repeal of section 1(1) and (2) and Schedules 1 and 3

- 5 The following provisions of this Act shall be repealed on the effective date –
- (a) section 1(1) and (2), 35
- (b) Schedule 1, and
- (c) Schedule 3.

SCHEDULE 3

Section 2(5)

NO SELECTION OF MINISTERS

Introduction

- 1 This Schedule has effect in accordance with section 2(5).

Postponement of next Northern Ireland Assembly election

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- 2 (1) In section 31 of the 1998 Act (Northern Ireland Assembly: dates of elections and dissolutions), for subsection (2) substitute –

“(2) The date of the poll for the election of the Assembly next following the Assembly elected at the poll on 26th November 2003 shall be a date to be specified in an order made by the Secretary of State.

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(2A) An order under subsection (2) may not specify a date falling on or before the date on which the poll would (apart from that subsection) fall to be held under subsection (1).

(2B) An order under subsection (2) may include provision making such modifications of –

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(a) any enactment (other than one contained in this Act), or

(b) any provision of subordinate legislation,

as appear to the Secretary of State to be necessary or expedient for the purposes of, or in consequence of or in connection with, the order.

(2C) An order under subsection (2) may, in particular, make provision modifying any duty of the Chief Electoral Officer for Northern Ireland whereby (apart from the order) he must perform any function or discharge any duty on or by reference to a particular date.

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(2D) An order under subsection (2) may also make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient.”

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- (2) In subsection (1) of that section, for “subsection (2)” substitute “subsections (2) to (3)”.

- (3) The amendments made by this paragraph shall have effect on and after 25th November 2006.

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Power to bring forward date of dissolution of current Northern Ireland Assembly

- 3 (1) In section 31 of the 1998 Act, after subsection (2D) insert –

“(2E) The Assembly elected at the poll on 26th November 2003 shall be dissolved on whichever of the following dates is the earlier –

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(a) 3rd May 2007; or

(b) such date as may be specified in an order made by the Secretary of State.”

- (2) In section 96 of the 1998 Act, in subsection (1), for “31(3)” substitute “31(2E), (3)”.

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- (3) The amendments made by this paragraph shall have effect on and after 25th November 2006.

Repeal of section 1(1) and (2) and Schedules 1 and 2

- 4 The following provisions of this Act shall be repealed on 25th November 2006—
- (a) section 1(1) and (2),
 - (b) Schedule 1, and
 - (c) Schedule 2.

Northern Ireland Bill

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To make provision for preparations for the restoration of devolved government in Northern Ireland and for the selection of persons to be Ministers on such restoration; to make provision as to the consequences of selecting or not selecting such persons; and for connected purposes.

*Presented by Mr Secretary Hain
Supported by
The Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Mr Secretary Clarke and Mr David Hanson.*

*Ordered, by The House of Commons,
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