

Northern Ireland (St Andrews Agreement) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Northern Ireland Office, are published separately as Bill 7 – 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 (St Andrews Agreement) Bill are compatible with the Convention rights.

Northern Ireland (St Andrews Agreement) Bill

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Make provision for preparations for the restoration of devolved government in Northern Ireland in accordance with the St Andrews Agreement; to make provision as to the consequences of compliance, or non-compliance, with the St Andrews Agreement timetable; to amend the Northern Ireland Act 1998; to make provision about district policing partnerships; to amend the Education (Northern Ireland) Orders 1997 and 2006; 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:—

PART 1

PREPARATIONS FOR RESTORATION OF DEVOLVED GOVERNMENT

1 Preparations for restoration of devolved government

- (1) There is to be an Assembly (referred to in this Act as “the Transitional 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 in accordance with the St Andrews Agreement. 10
- (2) Schedule 1 (provision about the Transitional Assembly) has effect.
- (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— 15
- (a) paragraph 3 of Schedule 1,
 - (b) paragraphs 2 and 4 of Schedule 2, and
 - (c) paragraphs 1 and 2 of Schedule 4.

-
- 2 Compliance or non-compliance with St Andrews Agreement timetable**
- (1) If at any time before 25 March 2007 the Secretary of State considers that (were Schedule 2 to come into force) there would be no reasonable prospect that each of the Ministerial offices would be filled in accordance with paragraph 2 of that Schedule, he may make an order bringing Schedule 3 into force on the day following the day on which the order is made. 5
- (2) If the Secretary of State does not make an order under subsection (1) before 25 March 2007 –
- (a) he must on that date make a restoration order providing for section 1 of the 2000 Act to cease to have effect on 26 March 2007, and 10
- (b) Schedule 2 shall come into force on 26 March 2007.
- (3) Subsection (4) applies if –
- (a) the Secretary of State makes a restoration order by virtue of subsection (2), but
- (b) it appears to him that one or more of the Ministerial offices has not been filled in accordance with paragraph 2 of Schedule 2 by the end of 26 March 2007. 15
- (4) Where this subsection applies –
- (a) the Secretary of State must on 27 March 2007 make an order under the 2000 Act revoking the restoration order, 20
- (b) that order must state that it is made by virtue of subsection (3) and must come into force on 28 March 2007, and
- (c) Schedule 3 shall come into force on 28 March 2007.
- (5) If the Secretary of State –
- (a) makes a restoration order by virtue of subsection (2), and 25
- (b) does not make an order by virtue of subsection (3) revoking the restoration order,
Schedule 4 shall come into force on 28 March 2007.
- (6) An order under subsection (1) must be made by statutory instrument.
- (7) Section 7(4) to (7) of the 2000 Act (affirmative resolution etc procedure) does not apply in relation to an order made by virtue of subsection (2) or (3). 30
- (8) In this section “the Ministerial offices” means –
- (a) the offices of First Minister and deputy First Minister, and
- (b) the Ministerial offices to be held by Northern Ireland Ministers.
- 3 Next Northern Ireland Assembly election to be in March 2007 etc** 35
- (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 26 November 2003 shall be 7 March 2007; and the Assembly elected on 26 November 2003 shall be dissolved on 30 January 2007.” 40
- (2) Subsection (3) applies in respect of any vacancy in the membership of the Northern Ireland Assembly which exists at any time between the passing of

this Act and the date of the next election of the Assembly (whether the vacancy occurred before or after the passing of this Act).

- (3) Article 7 of the Northern Ireland Assembly (Elections) Order 2001 (S.I. 2001/2599) does not apply in the case of such a vacancy.

4 Remuneration of members of the Assembly 5

- (1) Subsection (2) has effect in relation to –
- (a) the dissolution of the Northern Ireland Assembly on 30 January 2007, and
 - (b) the Assembly election the poll for which is to be held on 7 March 2007 (“the next Assembly election”). 10

- (2) Section 47 of the 1998 Act (remuneration of members) is to have effect as if, for subsection (10) of that section, there were substituted –

“(10) For the purposes of this section, a person who is a member of the Assembly immediately before the Assembly is dissolved shall be treated – 15

- (a) as if he were a member of the Assembly until the end of the day which is the latest day for the delivery of nomination papers for the next Assembly election; and
- (b) if he is nominated as a candidate at the next Assembly election, as if he were a member of the Assembly until the end of the day of the poll for that election.” 20

- (3) Subsection (4) has effect in relation to persons returned as members of the Northern Ireland Assembly at the next Assembly election.

- (4) Section 47 of the 1998 Act is to have effect as if, for subsection (9)(a) of that section, there were substituted – 25

“(a) a person’s membership of the Assembly begins on the day on which he takes his seat (following the next Assembly election) in the Assembly established under section 1(1) of the Northern Ireland (St Andrews Agreement) Act 2006 in accordance with standing orders of that Assembly; and” 30

PART 2

AMENDMENTS OF THE NORTHERN IRELAND ACT 1998 ETC

Ministerial conduct

5 The Executive Committee and the Ministerial Code

- (1) In section 20 of the 1998 Act (Executive Committee), after subsection (3) insert – 35

“(4) The Committee shall also have the function of discussing and agreeing upon –

- (a) significant or controversial matters that are clearly outside the scope of the agreed programme referred to in paragraph 20 of Strand One of that Agreement; 40

- (b) significant or controversial matters that the First Minister and deputy First Minister acting jointly have determined to be matters that should be considered by the Executive Committee.”

- (2) After section 28 of the 1998 Act insert – 5

“Ministerial Code

28A Ministerial Code

- (1) Without prejudice to the operation of section 24, a Minister or junior Minister shall act in accordance with the provisions of the Ministerial Code. 10
- (2) In this section “the Ministerial Code” means –
- (a) the Ministerial Code that becomes the Ministerial Code for the purposes of this section by virtue of paragraph 4 of Schedule 1 to the Northern Ireland (St Andrews Agreement) Act 2006 (as from time to time amended in accordance with this section); or 15
- (b) any replacement Ministerial Code prepared and approved in accordance with this section (as from time to time amended in accordance with this section).
- (3) If at any time the Executive Committee –
- (a) prepares draft amendments to the Ministerial Code; or 20
- (b) prepares a draft Ministerial Code to replace the Ministerial Code,
- the First Minister and deputy First Minister acting jointly shall lay the draft amendments or the draft Code before the Assembly for approval.
- (4) A draft Ministerial Code or a draft amendment to the Code – 25
- (a) shall not be approved by the Assembly without cross-community support; and
- (b) shall not take effect until so approved.
- (5) The Ministerial Code must include provision for requiring Ministers or junior Ministers to bring to the attention of the Executive Committee any matter that ought, by virtue of section 20(3) or (4), to be considered by the Committee. 30
- (6) The Ministerial Code must include provision for a procedure to enable any Minister or junior Minister to ask the Executive Committee to determine whether any decision that he is proposing to take, or has taken, relates to a matter that ought, by virtue of section 20(3) or (4), to be considered by the Committee. 35
- (7) The Ministerial Code must also include provision as to the procedures of the Executive Committee with respect to –
- (a) the taking of decisions; and 40
- (b) consideration by the Committee of decision papers that are to be considered by the North-South Ministerial Council or the British-Irish Council.
- (8) The Ministerial Code must in particular provide – 45

- (a) that it is the duty of the chairmen of the Executive Committee to seek to secure that decisions of the Executive Committee are reached by consensus wherever possible;
 - (b) that, if consensus cannot be reached, a vote may be taken; and
 - (c) that, if any three members of the Executive Committee require the vote on a particular matter which is to be voted on by the Executive Committee to require cross-community support, any vote on that matter in the Executive Committee shall require cross-community support in the Executive Committee. 5
- (9) The Ministerial Code may include such other provisions as the Executive Committee thinks fit. 10
- (10) Without prejudice to the operation of section 24, a Minister or junior Minister has no Ministerial authority to take any decision in contravention of a provision of the Ministerial Code made under subsection (5).” 15

6 Power to refer Ministerial decision to Executive Committee

After section 28A of the 1998 Act insert—

“Power to refer Ministerial decision to Executive Committee

28B Power to refer Ministerial decision to Executive Committee

- (1) This section applies if 30 members petition the Assembly expressing concern that a decision taken by a Minister or junior Minister (“the Ministerial decision”)— 20
- (a) may have been taken in contravention of section 28A(1); or
 - (b) relates to a matter of public importance.
- (2) But this section does not apply if the Ministerial decision has previously been the subject of a reference under this section. 25
- (3) If the Presiding Officer, after consulting the political parties whose members hold seats in the Assembly, certifies that the Ministerial decision relates to a matter of public importance, he shall refer the decision to the Executive Committee for its consideration. 30
- (4) Having considered the reference, the Executive Committee shall notify the Presiding Officer—
- (a) whether or not the decision was, in its view, taken in contravention of section 28A(1);
 - (b) whether or not the decision relates, in its view, to a significant or controversial matter; and
 - (c) as to any action that the Executive Committee proposes to take, or has taken, in relation to the decision. 35
- (5) No reference may be made under this section after the end of the period of seven days beginning with— 40
- (a) the day on which the Ministerial decision was taken; or
 - (b) if appropriate, the day on which the decision was notified to the Assembly.

- (6) Any consideration by the Executive Committee of a Ministerial decision under this section must be completed before the end of the period of seven days beginning with the day on which the reference is made.
- (7) Standing orders shall make provision with respect to the procedure to be followed – 5
- (a) in petitioning the Assembly under subsection (1); and
- (b) in making a reference under this section.
- (8) The periods mentioned in subsections (5) and (6) shall be computed by reference only to days on which the Assembly sits.” 10
- 7 Pledge of office**
- (1) In the pledge of office set out in Schedule 4 to the 1998 Act, after paragraph (c) insert –
- “(ca) to promote the interests of the whole community represented in the Northern Ireland Assembly towards the goal of a shared future; 15
- (cb) to participate fully in the Executive Committee, the North-South Ministerial Council and the British-Irish Council;
- (cc) to observe the joint nature of the offices of First Minister and deputy First Minister; 20
- (cd) to uphold the rule of law based as it is on the fundamental principles of fairness, impartiality and democratic accountability, including support for policing and the courts as set out in paragraph 6 of the St Andrews Agreement;”.
- (2) At the end of the pledge of office set out in that Schedule insert – 25
- “Paragraph 6 of the St Andrews Agreement says:
- “We believe that the essential elements of support for law and order include endorsing fully the Police Service of Northern Ireland and the criminal justice system, actively encouraging everyone in the community to co-operate fully with the PSNI in tackling crime in all areas and actively supporting all the policing and criminal justice institutions, including the Policing Board.”” 30

Ministerial appointments

- 8 First Minister, deputy First Minister and Northern Ireland Ministers** 35
- (1) For section 16 of the 1998 Act (First Minister and deputy First Minister) substitute –
- “16A Appointment of First Minister, deputy First Minister and Northern Ireland Ministers following Assembly election**
- (1) This section applies where an Assembly is elected under section 31 or 32. 40
- (2) All Northern Ireland Ministers shall cease to hold office.

- (3) Within a period of seven days beginning with the first meeting of the Assembly –
- (a) the offices of First Minister and deputy First Minister shall be filled by applying subsections (4) to (7); and
 - (b) the Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6). 5
- (4) The nominating officer of the largest political party of the largest political designation shall nominate a member of the Assembly to be the First Minister.
- (5) The nominating officer of the largest political party of the second largest political designation shall nominate a member of the Assembly to be the deputy First Minister. 10
- (6) If the persons nominated do not take up office within a period specified in standing orders, further nominations shall be made under subsections (4) and (5). 15
- (7) Subsections (4) to (6) shall be applied as many times as may be necessary to secure that the offices of First Minister and deputy First Minister are filled.
- (8) But no person may take up office as First Minister, deputy First Minister or Northern Ireland Minister by virtue of this section after the end of the period mentioned in subsection (3) (see further section 32(3)). 20
- (9) The persons nominated under subsections (4) and (5) shall not take up office until each of them has affirmed the terms of the pledge of office.
- (10) Subject to the provisions of this Part, the First Minister and the deputy First Minister shall hold office until immediately before those offices are next filled by virtue of this section. 25
- (11) The holder of the office of First Minister or deputy First Minister may by notice in writing to the Presiding Officer designate a Northern Ireland Minister to exercise the functions of that office –
- (a) during any absence or incapacity of the holder; or 30
 - (b) during any vacancy in that office arising otherwise than under section 16B(2),
- but a person shall not have power to act by virtue of paragraph (a) for a continuous period exceeding six weeks.
- (12) This section shall be construed in accordance with, and is subject to, section 16C. 35

16B Vacancies in the office of First Minister or deputy First Minister

- (1) The First Minister or the deputy First Minister –
- (a) may at any time resign by notice in writing to the Presiding Officer; and 40
 - (b) shall cease to hold office if he ceases to be a member of the Assembly otherwise than by virtue of a dissolution.
- (2) If either the First Minister or the deputy First Minister ceases to hold office at any time, whether by resignation or otherwise, the other –
- (a) shall also cease to hold office at that time; but 45

- (b) may continue to exercise the functions of his office until immediately before those offices are filled in accordance with this section.
- (3) Where the offices of the First Minister and the deputy First Minister become vacant at any time, they shall be filled by applying subsections (4) to (7) within a period of seven days beginning with that time. 5
- (4) The nominating officer of the largest political party of the largest political designation shall nominate a member of the Assembly to be the First Minister.
- (5) The nominating officer of the largest political party of the second largest political designation shall nominate a member of the Assembly to be the deputy First Minister. 10
- (6) If the persons nominated do not take up office within a period specified in standing orders, further nominations shall be made under subsections (4) and (5). 15
- (7) Subsections (4) to (6) shall be applied as many times as may be necessary to secure that the offices of First Minister and deputy First Minister are filled.
- (8) But no person may take up office as First Minister or deputy First Minister under this section after the end of the period mentioned in subsection (3) (see further section 32(3)). 20
- (9) The persons nominated under subsections (4) and (5) shall not take up office until each of them has affirmed the terms of the pledge of office.
- (10) This section shall be construed in accordance with, and is subject to, section 16C. 25

16C Sections 16A and 16B: supplementary

- (1) In sections 16A and 16B and this section “nominating officer”, in relation to a party, means –
- (a) the person registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 as the party’s nominating officer; or 30
- (b) a member of the Assembly nominated by him for the purposes of this section.
- (2) For the purposes of sections 16A and 16B and this section –
- (a) the size of a political party is to be determined by reference to the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election; but 35
- (b) if two or more parties are taken by virtue of paragraph (a) to be of the same size, the respective sizes of those parties is to be determined by reference to the number of first preference votes cast for the parties at the last general election of members of the Assembly; 40
- (this is subject to subsections (7) and (8)).

- (3) For the purposes of sections 16A and 16B and this section, a political party to which one or more members of the Assembly belong is to be taken –
- (a) to be of the political designation “Nationalist” if, at the relevant time (see subsection (11)), more than half of the members of the Assembly who belonged to the party were designated Nationalists; 5
 - (b) to be of the political designation “Unionist” if, at the relevant time, more than half of the members of the Assembly who belonged to the party were designated Unionists; 10
 - (c) otherwise, to be of the political designation “Other”.
- (4) For the purposes of sections 16A and 16B and this section –
- (a) the size of the political designation “Nationalist” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were designated Nationalists; 15
 - (b) the size of the political designation “Unionist” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were designated Unionists;
 - (c) the size of the political designation “Other” is to be taken to be equal to the number of members of the Assembly who, at the relevant time, were neither designated Nationalists nor designated Unionists. 20
- (5) But if two or more political designations are taken by virtue of subsection (4) to be of the same size, the respective sizes of those designations is to be determined by reference to the aggregate number of first preference votes cast, at the last general election of members of the Assembly, for members of the Assembly who, at the relevant time, were –
- (a) designated Nationalists (in the case of the political designation “Nationalist”); 30
 - (b) designated Unionists (in the case of the political designation “Unionist”); or
 - (c) neither designated Nationalists nor designated Unionists (in the case of the political designation “Other”).
- (6) If at any time the party which is the largest political party of the largest political designation is not the largest political party –
- (a) any nomination to be made at that time under section 16A(4) or 16B(4) shall instead be made by the nominating officer of the largest political party; and
 - (b) any nomination to be made at that time under section 16A(5) or 16B(5) shall instead be made by the nominating officer of the largest political party of the largest political designation. 40
- (7) Where –
- (a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and 45
 - (b) the party’s period of exclusion (see subsection (12)) under that provision has not come to an end,
- subsection (2)(a) above shall have effect as if the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election was nil. 50

- (8) Where—
- (a) the Secretary of State has given a direction under section 30A(5) in respect of a political party; and
 - (b) the party’s period of exclusion under that provision has not come to an end,
- subsection (2)(a) above shall have effect as if the number of seats in the Assembly which were held by members of the party on the day on which the Assembly first met following its election was nil. 5
- (9) Where—
- (a) a person nominated by the nominating officer of a political party ceased to hold office as First Minister or deputy First Minister as a result of a resolution of the Assembly under section 30(2) or a direction of the Secretary of State under section 30A(5); and 10
 - (b) the party’s period of exclusion under section 30(2) or 30A(5) subsequently comes to an end otherwise than by virtue of the dissolution of the Assembly, 15
- the First Minister and the deputy First Minister shall cease to hold office when the party’s period of exclusion under that provision comes to an end (unless any period of exclusion of the party under the other provision has not come to an end). 20
- (10) But where a direction under section 30A(5) ceases to have effect under section 95A(6) or (7), its so ceasing to have effect shall for the purposes of subsection (9) be taken not to involve the coming to an end of a period of exclusion under section 30A(5). 25
- (11) In this section “the relevant time” means the end of the day on which the Assembly first met following its election.
- (12) In this section, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended. 30
- (13) Standing orders may make further provision in connection with the making of nominations under sections 16A and 16B.
- (14) In this Act “the pledge of office” means the pledge of office which, together with the code of conduct to which it refers, is set out in Schedule 4.” 35
- (2) Schedule 5 (executive selection: consequential amendments) has effect.
- 9 Department with policing and justice functions: nomination etc of Ministers**
- Schedule 6 (department with policing and justice functions: nomination etc of Ministers) has effect.
- Committees* 40
- 10 Statutory committee for Office of First Minister and deputy First Minister**
- (1) Section 29 of the 1998 Act (statutory committees) is amended as follows.

- (2) In subsection (1)(a), after “committees”)” insert –
- “(i) to advise and assist the First Minister and the deputy First Minister in the formulation of policy with respect to matters within their responsibilities as Ministers jointly in charge of the Office of the First Minister and deputy First Minister, and
 - (ii) ”.
- (3) In subsection (6), for the words from “it is established” to the end of the subsection substitute –
- “(a) it is established to advise and assist the First Minister and the deputy First Minister and either of those Ministers is a member of his party; or
 - (b) it is established to advise and assist a Northern Ireland Minister and that Minister is a member of his party.”
- 11 Committee to review functioning of Assembly and Executive Committee**
- (1) After section 29 of the 1998 Act insert –
- “29A Committee to review functioning of Assembly and Executive Committee**
- (1) Standing orders shall make provision –
- (a) for establishing a committee to examine such matters relating to the functioning of the Assembly and the Executive Committee as may be specified in the standing orders;
 - (b) in relation to the membership of the committee; and
 - (c) for regulating proceedings of the committee.
- (2) Standing orders shall provide for the committee to make reports –
- (a) to the Assembly; and
 - (b) to the Executive Committee.
- (3) The committee shall, by no later than 1 May 2015, make a report on the operation of the provisions of Parts 3 and 4 of this Act –
- (a) to the Secretary of State;
 - (b) to the Assembly; and
 - (c) to the Executive Committee.
- 29B Review of operation of sections 16A to 16C**
- (1) Standing orders shall require the committee established by virtue of section 29A to consider –
- (a) the operation of sections 16A to 16C; and
 - (b) in particular, whether to recommend that the Secretary of State should make an order amending this Act and any other enactment so far as may be necessary to secure that they have effect, as from the date of the election of the 2011 Assembly, as if the executive selection amendments had not been made.
- (2) In subsection (1) –
- “the 2011 Assembly” means the Assembly due to be elected under section 31 of this Act in 2011;

“the executive selection amendments” means the amendments made by section 8 of, and paragraphs 1, 2(1) and (2) and 3 to 14 of Schedule 5 to, the Northern Ireland (St Andrews Agreement) Act 2006.”

- (2) If, by no later than 1 February 2011 – 5
- (a) the committee established by virtue of section 29A of the 1998 Act makes the recommendation set out in section 29B(1)(b) of that Act, and
- (b) the committee’s recommendation is approved by the Northern Ireland Assembly with cross-community support (within the meaning of that Act), 10
- the Secretary of State must by order made by statutory instrument amend that Act and any other enactment so far as may be necessary to secure that they have effect, as from the date of the election of the 2011 Assembly, as if the executive selection amendments had not been made.
- (3) In subsection (2) – 15
- “the 2011 Assembly” means the Northern Ireland Assembly due to be elected under section 31 of the 1998 Act in 2011;
- “the executive selection amendments” means the amendments made by section 8 of, and paragraphs 1, 2(1) and (2) and 3 to 14 of Schedule 5 to, this Act. 20
- (4) An order under this section may contain supplementary, incidental, consequential, transitional or saving provision.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- NSMC and BIC* 25

12 North-South Ministerial Council and British-Irish Council

For section 52 of the 1998 Act substitute –

“52A North-South Ministerial Council and British-Irish Council

- (1) The First Minister and the deputy First Minister acting jointly shall, as far in advance of each meeting of the North-South Ministerial Council or the British-Irish Council as is reasonably practicable, give to the Executive Committee and to the Assembly the following information in relation to the meeting – 30
- (a) the date;
- (b) the agenda; and 35
- (c) (once determined under this section) the names of the Ministers or junior Ministers who are to attend the meeting.
- (2) Each Minister or junior Minister who has responsibility (whether or not with another Minister or junior Minister) in relation to any matter included in the agenda for a meeting of either Council (“appropriate Minister”) shall be entitled – 40
- (a) to attend the meeting; and
- (b) to participate (see section 52C) in the meeting so far as it relates to that matter.

- (3) An appropriate Minister may nominate another Minister or junior Minister –
- (a) to attend the meeting in place of the appropriate Minister; and
 - (b) to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility,
- but a person may not be nominated under this subsection without his consent. 5
- (4) Each appropriate Minister shall notify the First Minister and the deputy First Minister, as soon as reasonably practicable and in any event no later than 10 days before the date of the meeting, that – 10
- (a) he intends to attend the meeting;
 - (b) he does not intend to attend the meeting but has nominated another person under subsection (3) to attend in his place; or
 - (c) he does not intend to attend the meeting and he does not intend, or has not been able, to make such a nomination,
- and a notification under paragraph (b) shall include the name of the person nominated. 15
- (5) If the appropriate Minister gives a notification under subsection (4)(c) (or if the First Minister and the deputy First Minister receive no notification from him under subsection (4)), the First Minister and the deputy First Minister acting jointly shall nominate a Minister or junior Minister – 20
- (a) to attend the meeting in place of the appropriate Minister; and
 - (b) to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility.
- 25
- (6) In relation to a matter for which the First Minister and the deputy First Minister are the appropriate Ministers –
- (a) the notification to be made by each of them under subsection (4) shall be made to the other; and
 - (b) if either of them (“A”) gives a notification under subsection (4)(c) (or if the other (“B”) receives no notification from A under subsection (4)), B (acting alone) shall make the nomination under subsection (5) in relation to A.
- 30
- (7) The First Minister and the deputy First Minister acting jointly shall make such nominations (or further nominations) of Ministers and junior Ministers (including where appropriate alternative nominations) as they consider necessary to ensure such cross-community participation in either Council as is required by the Belfast Agreement. 35
- (8) Subsection (9) applies in relation to any matter included in the agenda for a meeting of either Council if – 40
- (a) the First Minister and the deputy First Minister are not the appropriate Ministers in relation to the matter; but
 - (b) the matter is one that ought, by virtue of section 20(3) or (4), to be considered by the Executive Committee.
- 45
- (9) The First Minister and the deputy First Minister acting jointly shall also be entitled –
- (a) to attend the meeting; and
 - (b) to participate in the meeting so far as it relates to that matter.

- (10) In this section “day” does not include a Saturday, a Sunday, Christmas Day, Good Friday and any day which is a bank holiday in Northern Ireland.

52B Section 52A: duty to attend Council meetings etc

- (1) It shall be a Ministerial responsibility of – 5
 (a) each appropriate Minister; or
 (b) if a Minister or junior Minister is nominated under section 52A(3) or (5) to attend a meeting of the North-South Ministerial Council or the British-Irish Council in place of an appropriate Minister, that Minister or junior Minister, 10
 to participate in the meeting so far as it relates to matters for which the appropriate Minister has responsibility.
- (2) It shall be a Ministerial responsibility of a Minister or junior Minister nominated to attend a meeting of either Council under section 52A(7) to participate in the meeting so far as specified in the nomination. 15
- (3) Each appropriate Minister shall give to –
 (a) a person nominated under section 52A(3) or (5) to attend a meeting of either Council in his place; or
 (b) a person nominated under section 52A(7) to participate in a meeting of either Council so far as specified in the nomination, 20
 such information as may be necessary to enable the person’s full participation in the meeting.
- (4) But if the appropriate Minister does not give sufficient information under subsection (3) to enable the person’s full participation in the meeting – 25
 (a) the First Minister and the deputy First Minister acting jointly may request the necessary information; and
 (b) if they do so, the appropriate Minister must give that information to the person nominated.
- (5) A person nominated under section 52A(3) or (5) may enter into agreements or arrangements in respect of matters for which the appropriate Minister is (or the appropriate Ministers are) responsible. 30
- (6) Without prejudice to the operation of section 24, a Minister or junior Minister attending a meeting of either Council by virtue of any provision of section 52A or this section shall act in accordance with any decisions of the Assembly or the Executive Committee (by virtue of section 20) which are relevant to his participation in the Council concerned. 35
- (7) In this section “appropriate Minister”, in relation to a meeting of the North-South Ministerial Council or the British-Irish Council, has the same meaning as in section 52A. 40

52C Section 52A: supplementary

- (1) If any question arises under section 52A or 52B as to which Minister or junior Minister has responsibility for any matter, the First Minister and the deputy First Minister acting jointly shall determine that question. 45

- (2) A Minister or junior Minister who participates in a meeting of either the North-South Ministerial Council or the British-Irish Council by virtue of any provision of section 52A or 52B shall, as soon as reasonably practicable after the meeting, make a report –
- (a) to the Executive Committee; and 5
 - (b) to the Assembly.
- (3) A report under subsection (2)(b) shall be made orally unless standing orders authorise it to be made in writing.
- (4) The Northern Ireland contributions towards the expenses of the Councils shall be defrayed as expenses of the Office of the First Minister and deputy First Minister. 10
- (5) In sections 52A and 52B and this section “participate” shall be construed –
- (a) in relation to the North-South Ministerial Council, in accordance with paragraphs 5 and 6 of Strand Two of the Belfast Agreement; 15
 - (b) in relation to the British-Irish Council, in accordance with the first paragraph 5 of Strand Three of that Agreement.”

Miscellaneous

13 Community designation 20

In section 4 of the 1998 Act (transferred, excepted and reserved matters), after subsection (5) insert –

- “(5A) Standing orders of the Assembly shall provide that a member of the Assembly designated in accordance with the standing orders as a Nationalist, as a Unionist or as Other may change his designation only if –
- (a) (being a member of a political party) he becomes a member of a different political party or he ceases to be a member of any political party; 25
 - (b) (not being a member of any political party) he becomes a member of a political party.” 30

14 Power of Executive Committee to call for witnesses and documents

After section 28B of the 1998 Act insert –

“Executive Committee: further provisions

28C Power of Executive Committee to call for witnesses and documents 35

Section 44 applies to the Executive Committee as it applies to the Assembly, but as if –

- (a) in subsection (1), for “any person” there were substituted “a senior officer of a Northern Ireland department (within the meaning given by Article 2(3) of the Departments (Northern Ireland) Order 1999)”; 40

- (b) at the end of that subsection there were inserted “but only in so far as they are matters in relation to which the Executive Committee’s functions under section 20(3) or (4) are exercisable”;
- (c) subsection (6) were omitted; and 5
- (d) in subsection (7), for “The Presiding Officer” there were substituted “The First Minister and the deputy First Minister acting jointly”.”
- 15 Strategies relating to Irish language and Ulster Scots language etc**
- After section 28C of the 1998 Act insert – 10
- “28D Strategies relating to Irish language and Ulster Scots language etc**
- (1) The Executive Committee shall adopt a strategy setting out how it proposes to enhance and protect the development of the Irish language.
- (2) The Executive Committee shall adopt a strategy setting out how it proposes to enhance and develop the Ulster Scots language, heritage and culture. 15
- (3) The Executive Committee –
- (a) must keep under review each of the strategies; and
- (b) may from time to time adopt a new strategy or revise a strategy.” 20
- 16 Strategy relating to poverty, social exclusion etc**
- After section 28D of the 1998 Act insert –
- “28E Strategy relating to poverty, social exclusion etc**
- (1) The Executive Committee shall adopt a strategy setting out how it proposes to tackle poverty, social exclusion and patterns of deprivation based on objective need. 25
- (2) The Executive Committee –
- (a) must keep under review the strategy; and
- (b) may from time to time adopt a new strategy or revise the strategy.” 30
- 17 Vacancy in the Assembly**
- In Schedule 6 to the 1998 Act (which makes certain provision about standing orders), after paragraph 4 insert –
- “Votes in vacancy*
- 5 The standing orders may include provision enabling a right to vote in the Assembly which could have been exercised but for a vacancy in the membership of the Assembly to be exercisable in such manner as is so provided.” 35

18 Report on progress towards devolution of policing and justice matters

- (1) The Northern Ireland Assembly must make a report to the Secretary of State before 27 March 2008 –
 - (a) as to the preparations that the Assembly has made, and intends to make, having regard to paragraph 7 of the St Andrews Agreement, for or in connection with policing and justice matters ceasing to be reserved matters; 5
 - (b) as to which matters are likely to be the subject of any request under section 4(2A) of the 1998 Act that policing and justice matters should cease to be reserved matters; 10
 - (c) containing an assessment of whether the Assembly is likely to make such a request before 1 May 2008.
- (2) The Secretary of State must lay a copy of the report before each House of Parliament.
- (3) Paragraph 7 of the St Andrews Agreement says: 15

“Discussions on the devolution of policing and justice have progressed well in the Preparation for Government Committee. The Governments have requested the parties to continue these discussions so as to agree the necessary administrative arrangements to create a new policing and justice department. It is our view that implementation of the agreement published today should be sufficient to build the community confidence necessary for the Assembly to request the devolution of criminal justice and policing from the British Government by May 2008.” 20
- (4) In this section “policing and justice matter” has the meaning given by section 4(6) of the 1998 Act (as inserted by section 16(5) of the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33)) and “reserved matter” has the meaning given by section 4(1) of the 1998 Act. 25
- (5) In section 16(3) of the Northern Ireland (Miscellaneous Provisions) Act 2006, in the inserted section 4(2A) of the 1998 Act, for “devolved policing and justice matter” substitute “policing and justice matter”. 30
- (6) In section 16(5) of the Northern Ireland (Miscellaneous Provisions) Act 2006, in the inserted section 4(6) of the 1998 Act, for ““devolved policing and justice matter”” substitute ““policing and justice matter””.
- (7) In section 17(1) of the Northern Ireland (Miscellaneous Provisions) Act 2006, in the inserted section 21A(8)(b) of the 1998 Act, for “devolved policing and justice matter” substitute “policing and justice matter”. 35
- (8) The subject-matter of subsections (1) and (2) is to be treated as a reserved matter for the purposes of the 1998 Act.

19 Minor and consequential amendments 40

Schedule 7 (minor and consequential amendments relating to Part 2) has effect.

PART 3

OTHER AMENDMENTS

*Policing***20 District policing partnerships**

- (1) Schedule 8 (reconstitution of district policing partnerships) has effect. 5
- (2) Schedule 9 (district policing partnerships: Belfast sub-groups) has effect.

*Education***21 Amendment of Education (Northern Ireland) Order 2006 etc**

- (1) In Article 1 of the Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)), in paragraph (6), for sub-paragraphs (a) and (b) substitute – 10
- “(a) if Schedule 4 to the Northern Ireland (St Andrews Agreement) Act 2006 comes into force, on such date as the Department may by order appoint;
- (b) if Schedule 3 to that Act comes into force, on the date on which that Schedule comes into force;” 15
- (2) In Article 16 of the Education (Northern Ireland) Order 1997 (S.I. 1997/866 (N.I. 5)) (as substituted by Article 28(1) of the 2006 Order), in paragraph (5), in the opening words, after “a secondary school” insert “or of a secondary school of a specified description”.
- (3) The amendment made by subsection (2) shall come into force if (and only if) Schedule 4 comes into force. 20
- (4) If the amendment comes into force in accordance with subsection (3), it shall come into force on 28 March 2007.
- (5) If Schedule 3 comes into force, subsections (2) to (4) shall be repealed on the date on which that Schedule comes into force. 25

PART 4

SUPPLEMENTAL

22 Repeal of the 2006 Act

The 2006 Act is repealed.

23 Power to make consequential provision etc 30

- (1) The Secretary of State may by order made by statutory instrument make – 35
- (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.
- (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 28 March 2007.
- (3) In this section “enactment” includes –
- (a) any of sub-paragraphs (1) to (8) of paragraph 2 of Schedule 4, 5
 - (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)).
- 24 Parliamentary procedure for orders under section 23 10**
- (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 23 which amends or repeals any provision of –
- (a) an Act, or
 - (b) Northern Ireland legislation. 15
- (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. 20
- (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) –
- (a) must be laid before Parliament after being made, and 25
 - (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 –
- (a) anything done as a result of the order before it ceased to have effect, or 30
 - (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.
- 25 Interpretation 35**
- 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 2006 Act” means the Northern Ireland Act 2006 (c. 17);
 - “First Minister”, “deputy First Minister” and “Northern Ireland Minister” 40
have the same meaning as in the 1998 Act;
 - “restoration order” means a restoration order under section 2(2) of the 2000 Act (order restoring devolved government);

“the St Andrews Agreement” means the agreement reached on 13 October 2006 at multi-party talks on Northern Ireland held at St Andrews;
 “the Transitional Assembly” has the meaning given by section 1(1) of this Act.

26	Extent	5
(1)	The following provisions of this Act extend to Northern Ireland only –	
	(a) section 20 and Schedules 8 and 9;	
	(b) section 21.	
(2)	Subject to that, this Act extends to England and Wales, Scotland and Northern Ireland.	10
27	Commencement	
(1)	Schedules 2 to 4 shall only come into force in the circumstances specified in, and in accordance with, section 2.	
(2)	Subject to paragraph 3(1)(b) of Schedule 3, section 3(1) shall come into force on 26 January 2007.	15
(3)	The following provisions shall come into force on such day as the Secretary of State may by order made by statutory instrument appoint, and different days may be appointed for different purposes –	
	(a) section 4;	
	(b) section 20(1) and Schedule 8.	20
(4)	Part 2 (including Schedules 5 to 7) shall come into force if (and only if) the Secretary of State makes a restoration order by virtue of section 2(2).	
(5)	If that Part comes into force in accordance with subsection (4), it shall come into force on 26 March 2007.	
(6)	Section 20(2) and Schedule 9 shall come into force in accordance with provision made by an order under section 19(2) of the Police (Northern Ireland) Act 2003 (c. 6).	25
(7)	Section 21(2) shall only come into force in the circumstances specified in, and in accordance with, subsections (3) and (4) of that section.	
(8)	Subject to that, this Act shall come into force on the day on which it is passed.	30
28	Short title	

This Act may be cited as the Northern Ireland (St Andrews Agreement) Act 2006.

SCHEDULES

SCHEDULE 1

Section 1

THE TRANSITIONAL ASSEMBLY

Meetings

- | | | |
|---|--|----|
| 1 | (1) Meetings are to be held at such times and places as the presiding officer or any deputy presiding officer of the Transitional Assembly may notify to the members; and a meeting of the Transitional Assembly must be held on 24 November 2006. | 5 |
| | (2) But the Secretary of State may at any time direct that meetings are instead to be held at such times and places as may be specified in the direction. | 10 |

Proceedings

- | | | |
|---|--|----|
| 2 | (1) Proceedings are to be conducted in accordance with standing orders (see paragraph 9). | |
| | (2) But the Secretary of State may at any time direct that proceedings are instead to be conducted in accordance with the direction. | 15 |

Nominations for First Minister and deputy First Minister

- | | | |
|---|--|----|
| 3 | (1) The proceedings to be conducted by the Transitional Assembly shall include the making of nominations from among its members of persons to hold office as First Minister and deputy First Minister on the restoration of devolved government in Northern Ireland. | 20 |
| | (2) Such nominations may be made notwithstanding section 1(4) of, and paragraph 5 of the Schedule to, the 2000 Act. | |

Draft Ministerial Code

- | | | |
|---|---|----|
| 4 | (1) The proceedings to be conducted by the Transitional Assembly shall include the preparation and consideration of a draft Ministerial Code. | 25 |
| | (2) If the Transitional Assembly approves the draft Ministerial Code (with or without amendments) before 24 March 2007, the approved draft Ministerial Code shall become the Ministerial Code for the purposes of section 28A of the 1998 Act on 26 March 2007. | |
| | (3) Any approval under sub-paragraph (2) requires cross-community support (see paragraph 11). | 30 |
| | (4) The draft Ministerial Code approved under sub-paragraph (2) – | |

- (a) must comply with the requirements of subsections (5) to (8) of section 28A of the 1998 Act (to be inserted in that Act by section 5 of this Act), and
- (b) may include other provisions.
- (5) But if the Transitional Assembly has not approved the draft Ministerial Code (with or without amendments) before 24 March 2007 – 5
- (a) the Secretary of State must prepare a draft Ministerial Code in accordance with sub-paragraph (6), and
- (b) that draft Ministerial Code shall become the Ministerial Code for the purposes of section 28A of the 1998 Act on 26 March 2007. 10
- (6) The draft Ministerial Code referred to in sub-paragraph (5) must, so far as practicable, be –
- (a) in the form of any parts of the draft Ministerial Code that have been approved by the Transitional Assembly under sub-paragraph (2) (with or without amendments) before 24 March 2007; 15
- (b) otherwise, in the form of the former Ministerial Code, and must comply with the requirements of subsections (5) to (8) of section 28A of the 1998 Act.
- (7) In this paragraph “the former Ministerial Code” means the Ministerial Code which – 20
- (a) was approved by the Executive Committee of the Northern Ireland Assembly, and
- (b) applied to members of the Executive Committee immediately before the most recent suspension of that Assembly by virtue of section 1 of the 2000 Act. 25

Draft standing orders for Northern Ireland Assembly

- 5 (1) The proceedings to be conducted by the Transitional Assembly shall include the preparation and consideration of draft standing orders for the Northern Ireland Assembly.
- (2) If the Transitional Assembly approves the draft standing orders (with or without amendments) before 24 March 2007, the approved draft standing orders shall become the standing orders of the Northern Ireland Assembly on 26 March 2007. 30
- (3) Any approval under sub-paragraph (2) requires cross-community support.
- (4) But if the Transitional Assembly has not approved the draft standing orders (with or without amendments) before 24 March 2007 – 35
- (a) the Secretary of State must prepare draft standing orders in accordance with sub-paragraph (5), and
- (b) those draft standing orders shall become the standing orders of the Northern Ireland Assembly on 26 March 2007. 40
- (5) Subject to sub-paragraph (7), the draft standing orders referred to in sub-paragraph (4) must, so far as practicable, be –
- (a) in the form of any parts of the draft standing orders that have been approved by the Transitional Assembly under sub-paragraph (2) (with or without amendments) before 24 March 2007; 45
- (b) otherwise, in the form of the former standing orders.

- (6) In this paragraph “the former standing orders” means the standing orders of the Northern Ireland Assembly as they had effect immediately before the most recent suspension of that Assembly by virtue of section 1 of the 2000 Act.
- (7) The draft standing orders approved under sub-paragraph (2) or the draft standing orders prepared in accordance with sub-paragraph (6) – 5
- (a) must comply with the requirements of the 1998 Act (as it is to have effect on and after 26 March 2007), and
 - (b) may include other provisions.
- Presiding officer* 10
- 6 (1) The Transitional Assembly shall have –
- (a) a presiding officer, and
 - (b) no more than three deputy presiding officers.
- (2) The person who is the presiding officer of the Assembly immediately before the time at which this Schedule comes into force shall become the presiding officer of the Transitional Assembly at that time. 15
- (3) Each person who is a deputy presiding officer of the Assembly immediately before that time shall become a deputy presiding officer of the Transitional Assembly at that time.
- (4) Subject to sub-paragraphs (5) to (7), the Transitional Assembly may elect a person – 20
- (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 appears to members of the Transitional Assembly to be unable, unfit or unwilling to perform his functions (whether because of illness or otherwise). 25
- (5) A person shall not be elected under sub-paragraph (4) without cross-community support.
- (6) If it appears to the Secretary of State that – 30
- (a) a vacancy has arisen in the office of presiding officer or deputy presiding officer of the Transitional Assembly, and
 - (b) the vacancy has not been filled within a period of two weeks beginning with the day on which the vacancy arose,
- the Secretary of State may appoint a person to fill the vacancy. 35
- (7) If it appears to the Secretary of State that –
- (a) a presiding officer or deputy presiding officer of the Transitional Assembly has become unable, unfit or unwilling to perform his functions (whether because of illness or otherwise), and
 - (b) the officer has not been replaced within a period of two weeks beginning with the day on which the officer became unable, unfit or unwilling to perform his functions, 40
- the Secretary of State may appoint a person to replace the officer.
- (8) In this paragraph “the Assembly” means the Assembly established under paragraph 1 of Schedule 1 to the 2006 Act. 45

Staff etc

- 7 (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. 5

Privilege

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

Standing orders

- 9 (1) In this Schedule (other than in paragraph 5) “standing orders” means standing orders of the Transitional Assembly. 10
- (2) The initial standing orders shall be determined by the Secretary of State and notified to the presiding officer or any deputy presiding officer of the Transitional Assembly. 15
- (3) The initial standing orders may be added to or amended by the Secretary of State by notification to the presiding officer or any deputy presiding officer of the Transitional Assembly; but no addition or amendment may be made under this sub-paragraph to the extent that it is inconsistent with anything done by the Transitional Assembly under sub-paragraph (4). 20
- (4) The initial standing orders may be amended or replaced by the Transitional Assembly, but standing orders shall not be made, amended or repealed by the Transitional Assembly without cross-community support.
- (5) The provision that may be made by standing orders includes provision which corresponds, or is similar, to – 25
- (a) any provision of standing orders made (or treated as made) under section 41 of the 1998 Act, or
- (b) any provision of directions made by the Secretary of State under paragraph 4 of Schedule 1 to the 2006 Act.
- (6) The provision that may be made by standing orders also includes provision that may be made under paragraph 5 of Schedule 6 to the 1998 Act (to be inserted in that Act by section 17 of this Act). 30
- (7) The provision that may be made by standing orders for the purposes of the nominations referred to in paragraph 3 above includes provision which corresponds, or is similar, to any provision of sections 16A to 16C of the 1998 Act (to be inserted in that Act by section 8 of this Act). 35
- (8) The standing orders may provide for further nominations to be made if any nomination made by virtue of paragraph 3 above ceases to have effect, by virtue of the standing orders, at any time before 26 March 2007.

Members to be deemed to have signed roll of membership etc

- 10 (1) Each person who was a member of the Assembly immediately before the time at which this Schedule comes into force shall be deemed to have signed 40

- the roll of membership of the Transitional Assembly at that time in accordance with standing orders.
- (2) Each such person shall be deemed to have designated himself at that time in accordance with standing orders –
- (a) as a Nationalist (if, immediately before that time, he was designated as a Nationalist for the purposes of the Assembly); 5
 - (b) as a Unionist (if, immediately before that time, he was designated as a Unionist for the purposes of the Assembly);
 - (c) otherwise, as Other.
- (3) In this paragraph “the Assembly” means the Assembly established under paragraph 1 of Schedule 1 to the 2006 Act. 10

Meaning of “cross-community support”

- 11 (1) In this Schedule “cross-community support”, in relation to a vote on any matter, means –
- (a) the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting, or 15
 - (b) the support of 60% of the members voting, 40% of the designated Nationalists voting and 40% of the designated Unionists voting.
- (2) In sub-paragraph (1) – 20
- “designated Nationalist” means a member designated as a Nationalist in accordance with standing orders, and
 - “designated Unionist” is to be construed accordingly.

SCHEDULE 2

Section 2(2)

RESTORATION OF DEVOLVED GOVERNMENT ON 26 MARCH 2007 25

Introduction

- 1 In this Schedule “the restoration order” means the restoration order made by virtue of section 2(2).

The Ministerial offices

- 2 (1) 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 26 March 2007). 30
- (2) On 26 March 2007 –
- (a) the First Minister designate shall, subject to sub-paragraph (4), become the First Minister, and 35
 - (b) the deputy First Minister designate shall, subject to sub-paragraph (4), become the deputy First Minister, (and section 16A of the 1998 Act does not apply).
- (3) In sub-paragraph (2) – 40

- “the First Minister designate” means the person whose nomination by virtue of paragraph 3 of Schedule 1 to this Act to hold office as First Minister has effect immediately before 26 March 2007;
- “the deputy First Minister designate” means the person whose nomination by virtue of that paragraph to hold office as deputy First Minister has effect immediately before that date. 5
- (4) But the persons whose nominations so have effect shall not take up office until each of them has affirmed the terms of the pledge of office (within the meaning given by section 16C(14) of the 1998 Act).
- (5) On 26 March 2007, the Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6) of the 1998 Act (and section 16A of the 1998 Act does not apply). 10
- (6) But for that purpose, section 18 of that Act shall have effect as if the reference, in the definition of “S” in subsection (5) of that section, to the day on which the Assembly first met following its election were a reference to the first day on which the Transitional Assembly met after 7 March 2007. 15
- (7) 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.
- Presiding Officer and deputy Presiding Officer* 20
- 3 (1) The person who is presiding officer of the Transitional Assembly immediately before 26 March 2007 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 (and, accordingly, any person who is a deputy Presiding Officer of the Northern Ireland Assembly immediately before that date shall cease to hold office under section 39(2) of that Act on that date). 25
- (2) Each person who is a deputy presiding officer of the Transitional Assembly immediately before 26 March 2007 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. 30
- Restoration order: supplementary provisions*
- 4 (1) The provision that may be made by the restoration order by virtue of section 7(2) of the 2000 Act includes provision –
- (a) for treating things done (or treated as done) under or by virtue of this Act as having been done under or by virtue of the 1998 Act; 35
- (b) for treating things done (or treated as done) by or in relation to the Transitional Assembly (or members of that Assembly) as having been done by or in relation to the Northern Ireland Assembly (or members of that Assembly).
- (2) Section 2(3) of the 2000 Act (taking account of review under Validation, Implementation and Review section of Belfast Agreement) does not apply in relation to the restoration order. 40

Modification of section 29(3) of the 1998 Act and paragraph 7(7) of Schedule 1 to the Police (Northern Ireland) Act 2000

- 5 (1) This paragraph applies in relation to the first occasion on or after 26 March 2007 on which the offices of chairmen and deputy chairmen of the statutory committees are to be filled in accordance with standing orders made under section 29 of the 1998 Act. 5
- (2) That section (and those standing orders) shall have effect as if the reference, in the definition of “S” in subsection (3) of that section (and in those standing orders), to the day on which the Assembly first met following its election were a reference to the first day on which the Transitional Assembly met after 7 March 2007. 10
- 6 (1) This paragraph applies in relation to the first occasion on or after 26 March 2007 on which the political members of the Northern Ireland Policing Board are to be nominated in accordance with paragraph 7 of Schedule 1 to the Police (Northern Ireland) Act 2000 (c. 32). 15
- (2) That paragraph shall have effect as if the reference, in the definition of “S” in sub-paragraph (7) of that paragraph, to the day on which the Assembly first met following its election were a reference to the first day on which the Transitional Assembly met after 7 March 2007.

Repeal of certain provisions of this Act on 26 March 2007 20

- 7 The following provisions of this Act are repealed –
- (a) section 1(1) and (2), and
 - (b) Schedule 1.

SCHEDULE 3

Section 2(1) or (4)

NON-COMPLIANCE WITH ST ANDREWS AGREEMENT TIMETABLE 25

Dissolution of Northern Ireland Assembly

- 1 If this Schedule comes into force before 30 January 2007 or after 7 March 2007, the Northern Ireland Assembly shall be dissolved on the date on which it comes into force.

Postponement of next Northern Ireland Assembly election 30

- 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 current Assembly shall be a date to be specified in an order made by the Secretary of State. 35
- In this subsection “the current Assembly” means –
- (a) if Schedule 3 to the Northern Ireland (St Andrews Agreement) Act 2006 comes into force on or before 7 March 2007, the Assembly elected at the poll on 26 November 2003;
 - (b) otherwise, the Assembly elected at the poll on 7 March 2007. 40

- (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— 5
 (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 10
 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.
- (2D) An order under subsection (2) may also make such supplementary, 15
 incidental or consequential provision as the Secretary of State considers necessary or expedient.”
- (2) In subsection (1) of that section, for “subsection (2)” substitute “subsections (2) to (3)”.
- Repeal of certain provisions of this Act etc* 20
- 3 (1) The following provisions of this Act are repealed—
 (a) section 1(1) and (2),
 (b) section 3,
 (c) Schedule 1,
 (d) Schedule 2, 25
 (e) Schedule 4, and
 (f) Part 2 (including Schedules 5 to 7).
- (2) If this Schedule comes into force on 28 March 2007, the enactments amended by Part 2 (including Schedules 5 to 7) shall be deemed to have effect, as from that date, as if the amendments made by that Part had not been made. 30

SCHEDULE 4

Section 2(5)

REPEAL OF 2000 ACT ETC

Repeal of the 2000 Act on 28 March 2007

- 1 The 2000 Act is repealed.

Repeal of the 2000 Act: supplementary provisions 35

- 2 (1) The Northern Ireland Assembly may not make a determination under section 47 of the 1998 Act in respect of any period of suspension.
- (2) 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. 40

- (3) 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 28 March 2007 under paragraph 1(1) of that Schedule.
- (4) 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 including references to Orders in Council made under paragraph 1(1) of the Schedule to that Act. 5
- (5) The repeal of section 6 of the 2000 Act by virtue of paragraph 1 above shall not affect the operation of any order previously made under that section. 10
- (6) The repeal of section 7 of the 2000 Act by virtue of paragraph 1 above shall not affect the operation of any provision of a restoration order previously made by virtue of subsection (2) of that section.
- (7) The repeal of paragraph 9 of the Schedule to the 2000 Act by virtue of paragraph 1 above shall not affect the operation of any determination or provision previously made by virtue of that paragraph. 15
- (8) 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 paragraph 1 above). 20
- (9) In this paragraph –
 “instrument” includes a charter, contract or other document;
 “period of suspension” means a period when section 1 of the 2000 Act was in force.
- (10) Sub-paragraphs (1) to (8) are not to be taken as limiting the provision that may be made by an order under section 23 of this Act. 25

Repeal of Schedule 3 to this Act on 28 March 2007

- 3 Schedule 3 to this Act is repealed.

SCHEDULE 5

Section 8

EXECUTIVE SELECTION: CONSEQUENTIAL AMENDMENTS 30

Northern Ireland Act 1998 (c. 47)

- 1 The 1998 Act is amended as follows.
- 2 (1) Section 18 (Northern Ireland Ministers) is amended as follows.
- (2) Omit subsection (1)(a).
- (3) For subsection (13) substitute – 35
- “(13) In this section “nominating officer”, in relation to a party, means –
 (a) the person registered under Part 2 of the Political Parties, Elections and Referendums Act 2000 as the party’s nominating officer; or

	(b) a member of the Assembly nominated by him for the purposes of this section.”	
3	In section 19A (disqualification for certain offices which may be held by members of the Assembly), in subsection (1), for paragraphs (a) and (b) substitute –	5
	“(a) be nominated to hold the office of First Minister or deputy First Minister or a Ministerial office to be held by a Northern Ireland Minister.”	
4	In section 32 (extraordinary elections), for subsection (3) substitute –	
	“(3) If –	10
	(a) the period mentioned in section 16A(3) ends without the offices of First Minister and deputy First Minister and the Ministerial offices to be held by Northern Ireland Ministers having been filled; or	
	(b) the period mentioned in section 16B(3) ends without the offices of First Minister and deputy First Minister having been filled,	15
	the Secretary of State shall propose a date for the poll for the election of the next Assembly.”	
5	In section 98(1) (interpretation), in the definition of “the pledge of office”, for “16(10)” substitute “16C(14)”.	20
6	(1) Schedule 12A (effect of application of section 95A(6) or (7)) is amended as follows.	
	(2) In paragraph 6(4), for “16(8)” substitute “16B(3) to (9)”.	
	(3) In paragraph 7(4), for “16(7)” substitute “16B(2)”.	25
	(4) In paragraph 8(1)(a), for “the six weeks” substitute “the period of seven days”.	
	(5) In paragraph 8(3), for “16” substitute “16B(3) to (9)”.	
	(6) In paragraph 8(4) –	
	(a) for “for an election under section 16” substitute “under section 16B(3) to (9)”;	30
	(b) for “of six weeks mentioned in section 16(8)” substitute “mentioned in section 16B(3)”.	
	<i>Northern Ireland Act 2000 (c. 1)</i>	
7	In section 1 of the 2000 Act (suspension of devolved government in Northern Ireland), in subsection (4), omit “elected”.	35
	<i>Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33)</i>	
8	In Schedule 2 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33) (department with policing and justice functions), the inserted Schedule 4A to the 1998 Act is amended as follows.	40

9 After paragraph 1 insert –

“Modification of section 16A

1A Section 16A(3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted –

“(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 1 of Schedule 4A) shall be filled by applying paragraph 3(3) to (6) of that Schedule; and

(b) once that office has been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).”

10 In paragraph 3 (department in the charge of Minister approved by resolution of Assembly: provisions relating to relevant Minister), in sub-paragraph (1), for “(a) to (e)” substitute “(b) to (e)”.

11 After paragraph 4 insert –

“Modification of section 16A

4A Section 16A(3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted –

“(aa) once those offices have been filled, the relevant Ministerial offices (within the meaning of Part 2 of Schedule 4A) shall be filled by applying paragraph 7(3) to (6) of that Schedule; and

(b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).”

12 In paragraph 7 (department in the charge of two Ministers: provisions relating to relevant Ministers), in sub-paragraph (1), for “(a) to (e)” substitute “(b) to (e)”.

13 After paragraph 8 insert –

“Modification of section 16A

8A Section 16A(3) shall have effect as if, for paragraph (b) (and the word “and” before it) there were substituted –

“(aa) once those offices have been filled, the relevant Ministerial office (within the meaning of Part 3 of Schedule 4A) and the relevant junior Ministerial office (within that meaning) shall be filled by applying paragraph 11(3) to (6) of that Schedule; and

(b) once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).”

14 In paragraph 11 (department with rotation between Minister and junior Minister: provisions relating to relevant Minister and relevant junior Minister), in sub-paragraph (1), for “(a) to (e)” substitute “(b) to (e)”.

SCHEDULE 6

Section 9

DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS: NOMINATION ETC OF MINISTERS

Introduction

- 1 In Schedule 2 to the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33) (department with policing and justice functions), the inserted Schedule 4A to the 1998 Act is amended as follows. 5

Department in the charge of Minister approved by resolution of Assembly

- 2 (1) Paragraph 3 (provisions relating to relevant Minister) is amended as follows.
- (2) After sub-paragraph (3) insert –
- “(3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.” 10
- (3) In sub-paragraph (9), at the end insert “; or
- (d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer’s successor) and the Presiding Officer is notified of his dismissal.” 15
- (4) After sub-paragraph (10) insert –
- “(10A) If, as a result of the relevant Minister (“the former Minister”) ceasing to hold office and the relevant Ministerial office being filled by virtue of sub-paragraph (10), – 20
- (a) the total number of Ministerial offices held by members of a political party increases; or
- (b) the total number of Ministerial offices held by members of a political party decreases, 25
- all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (10B) But sub-paragraph (10A) shall not apply if – 30
- (a) the former Minister ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and
- (b) before the relevant Ministerial office was filled, either of the conditions in sub-paragraph (10C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer. 35
- (10C) The conditions are that –
- (a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for the relevant Ministerial office but consent to his nomination was not given in accordance with sub-paragraph (3A); or 40
- (b) the member was nominated under sub-paragraph (3) for the relevant Ministerial office and the nomination took

effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.”

(5) After sub-paragraph (13) insert –

“(14) In this paragraph “nominating officer” has the same meaning as in section 18.” 5

Department in the charge of two Ministers

3 (1) Paragraph 7 (provisions relating to relevant Ministers) is amended as follows.

(2) After sub-paragraph (3) insert – 10

“(3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.”

(3) In sub-paragraph (9), at the end insert “; or 15

(d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer’s successor) and the Presiding Officer is notified of his dismissal.”

(4) After sub-paragraph (10) insert – 20

“(10A) If, as a result of the relevant Ministers (“the former Ministers”) ceasing to hold office and the relevant Ministerial offices being filled by virtue of sub-paragraph (10)(b), –

(a) the total number of Ministerial offices held by members of a political party increases; or 25

(b) the total number of Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders. 30

(10B) But sub-paragraph (10A) shall not apply if –

(a) either of the former Ministers ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and

(b) before the relevant Ministerial offices were filled, either of the conditions in sub-paragraph (10C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned. 35

(10C) The conditions are that – 40

(a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for one of the relevant Ministerial offices but consent to his nomination was not given in accordance with sub-paragraph (3A); or 45

- (b) the member was nominated under sub-paragraph (3) for one of the relevant Ministerial offices and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.” 5
- (5) After sub-paragraph (13) insert –
- “(14) In this paragraph “nominating officer” has the same meaning as in section 18.”

Department with rotation between Minister and junior Minister

- 4 (1) Paragraph 11 (provisions relating to relevant Minister and relevant junior Minister) is amended as follows. 10
- (2) After sub-paragraph (3) insert –
- “(3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.” 15
- (3) In sub-paragraph (9), at the end insert “; or
- (d) where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer’s successor) and the Presiding Officer is notified of his dismissal.” 20
- (4) After sub-paragraph (11) insert –
- “(11A) If, as a result of the relevant Minister (“the former Minister”) and the relevant junior Minister (“the former junior Minister”) ceasing to hold office and the relevant Ministerial office and the relevant junior Ministerial office being filled by virtue of sub-paragraph (11)(b), – 25
- (a) the total number of Ministerial offices or junior Ministerial offices held by members of a political party increases; or
- (b) the total number of Ministerial offices or junior Ministerial offices held by members of a political party decreases, 30
- all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.
- (11B) But sub-paragraph (11A) shall not apply if – 35
- (a) the former Minister or the former junior Minister ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and
- (b) before the relevant Ministerial office and the relevant junior Ministerial office were filled, either of the conditions in sub-paragraph (11C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned. 40
- (11C) The conditions are that –
- (a) the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for the 45

- appropriate office, but consent to his nomination was not given in accordance with sub-paragraph (3A); or
- (b) the member was nominated under sub-paragraph (3) for the appropriate office and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period. 5
- (11D) In sub-paragraph (11C) “the appropriate office” means –
- (a) in relation to a person who was a member of the political party of the nominating officer who dismissed the former Minister, the relevant Ministerial office; 10
- (b) in relation to a person who was a member of the political party of the nominating officer who dismissed the former junior Minister, the relevant junior Ministerial office.”
- (5) After sub-paragraph (14) insert – 15
- “(15) In this paragraph “nominating officer” has the same meaning as in section 18.”

SCHEDULE 7

Section 19

MINOR AND CONSEQUENTIAL AMENDMENTS RELATING TO PART 2

- Northern Ireland Act 1998 (c. 47)* 20
- 1 The 1998 Act is amended as follows.
- 2 In section 53 (agreements etc., by persons participating in North-South Ministerial Council and British-Irish Council), in subsection (1), for “a nomination under section 52” substitute “any provision of section 52A or 52B”. 25
- 3 In section 98 (interpretation), in subsection (1), insert the following definition at the appropriate place –
- ““the St Andrews Agreement” means the agreement reached on 13 October 2006 at multi-party talks on Northern Ireland held at St Andrews;”. 30
- 4 (1) Schedule 2 (excepted matters) is amended as follows.
- (2) In paragraph 3(b)(i), for “a nomination under section 52” substitute “any provision of section 52A or 52B”.
- (3) In paragraph 22 –
- (a) in sub-paragraph (b), for “and 28” substitute “, 28, 28A, 28B, 28D and 28E”; 35
- (b) in sub-paragraph (d), for “52” substitute “52A to 52C”.
- 5 In Schedule 3 (reserved matters), in paragraph 42(a), for “and 28” substitute “, 28, 28A and 28B”.

Northern Ireland Act 2000 (c. 1)

- 6 In section 1 of the 2000 Act (suspension of devolved government in Northern Ireland), in subsection (5), for “section 52” substitute “section 52A, 52B”.

SCHEDULE 8

Section 20(1)

RECONSTITUTION OF DISTRICT POLICING PARTNERSHIPS

5

Introduction

- 1 (1) Schedule 3 to the Police (Northern Ireland) Act 2000 (c. 32) has effect subject to this Schedule.
- (2) In this Schedule –
- “the Board” means the Northern Ireland Policing Board; 10
 - “the commencement date” means the date on which this Schedule comes into force;
 - “the council”, in relation to a DPP, means the district council by which the DPP is established;
 - “district council” has the same meaning as in the Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.)); 15
 - “DPP” means a district policing partnership;
 - “independent appointment date”, in relation to a DPP, means the date published by the Board under paragraph 4(2) of this Schedule;
 - “independent member”, in relation to a DPP, means a member 20 appointed under paragraph 2(3)(b), (4)(b) or (5)(b) of Schedule 3 to the Police (Northern Ireland) Act 2000;
 - “political appointment date”, in relation to a DPP, means the date published by the council under paragraph 3(2) of this Schedule;
 - “political member”, in relation to a DPP, means a member appointed 25 under paragraph 2(3)(a), (4)(a) or (5)(a) of Schedule 3 to the Police (Northern Ireland) Act 2000.

Report on whether DPPs meet the political condition

- 2 (1) The Board must comply with the requirements of this paragraph within a period of 15 days beginning with the commencement date. 30
- (2) The Board must consider whether the political condition is met in relation to each DPP.
- (3) The Board must submit to the Secretary of State a report on each DPP –
- (a) stating whether or not, in the view of the Board, the political condition is met in relation to the DPP, and 35
 - (b) setting out its reasons for that view.
- (4) The Board must provide to each district council a copy of the report so far as the report relates to the DPP established by that council.
- (5) The Board must publish a list of the DPPs which, in its view, do not meet the political condition. 40

(6) For the purposes of this paragraph the political condition is met in relation to a DPP if the political members of the DPP reflect, so far as practicable, the balance of parties prevailing among the members of the council on the commencement date.

(7) For the purposes of this paragraph an independent member of a council shall be treated as a party. 5

Appointment of political members of DPPs which do not meet the political condition

3 (1) This paragraph applies in relation to each DPP specified in the list published under paragraph 2(5).

(2) The council must publish notice of the date which is to be the political appointment date in relation to the DPP. 10

(3) Notice under sub-paragraph (2) must be published in such manner as appears to the council appropriate for bringing it to the attention of interested persons.

(4) The political appointment date in relation to a DPP must be a date no later than three months after the date on which the list is published. 15

(5) Each person who is a political member of the DPP on the day before the political appointment date shall cease to hold office at the end of that day.

(6) On the political appointment date, the council must appoint political members of the DPP in accordance with Schedule 3 to the Police (Northern Ireland) Act 2000 (c. 32); but for this purpose paragraph 3(1) of that Schedule is to have effect as if, for “immediately after the last local general election” there were substituted “on the date on which Schedule 8 to the Northern Ireland (St Andrews Agreement) Act 2006 comes into force”. 20

(7) A person who ceases to hold office as a political member by virtue of sub-paragraph (5) shall be eligible for re-appointment. 25

(8) Where a political member of the DPP ceases to hold office at any time during the period –

(a) beginning with the date on which the list is published, and

(b) ending with the day before the political appointment date, 30
no appointment shall be made to fill the casual vacancy.

(9) Where a person ceases to hold office as chairman of the DPP during that period, no appointment shall be made before the political appointment date to fill the vacancy in the office.

Appointment of independent members of DPPs which do not meet the political condition 35

4 (1) This paragraph applies in relation to each DPP specified in the list published under paragraph 2(5).

(2) The Board must publish notice of the date which is to be the independent appointment date in relation to the DPP.

(3) Notice under sub-paragraph (2) must be published in such manner as appears to the Board appropriate for bringing it to the attention of interested persons. 40

- (4) Each person who is an independent member of the DPP on the day before the independent appointment date shall cease to hold office at the end of that day.
- (5) On the independent appointment date, the Board must appoint independent members of the DPP in accordance with Schedule 3 to the Police (Northern Ireland) Act 2000 (c. 32). 5
- (6) A person who ceases to hold office as an independent member by virtue of sub-paragraph (4) shall be eligible for re-appointment.
- (7) Where an independent member of the DPP ceases to hold office at any time during the period – 10
- (a) beginning with the date on which the list is published, and
- (b) ending with the day before the independent appointment date,
- no appointment shall be made to fill the casual vacancy.
- (8) Where a person ceases to hold office as vice-chairman of the DPP during that period, no election shall be conducted before the independent appointment date to fill the vacancy in the office. 15

Supplementary provisions

- 5 (1) Section 15 of the Police (Northern Ireland) Act 2000 shall apply in relation to a failure by a district council to comply with any provision of this Schedule as it applies in relation to a failure by a district council to comply with any provision of Schedule 3 to that Act. 20
- (2) Paragraph 6 of Schedule 3 to that Act shall apply in relation to any functions of a district council or the Board under this Schedule as it applies in relation to any functions of a district council or the Board under paragraphs 4 and 5 of that Schedule. 25

SCHEDULE 9

Section 20(2)

DISTRICT POLICING PARTNERSHIPS: BELFAST SUB-GROUPS

Introduction

- 1 In paragraph 13 of Schedule 1 to the Police (Northern Ireland) Act 2003 (c. 6), (Belfast), the inserted Schedule 3A to the Police (Northern Ireland) Act 2000 is amended as follows. 30

Effect of local government election on membership of sub-group

- 2 (1) In paragraph 1, after sub-paragraph (1) insert –
- “(1A) In this Schedule, in relation to a sub-group and the holding of a local general election – 35
- “the transitional period” means the period –
- (a) beginning with the election day; and
- (b) ending with the day before the reconstitution date;
- “reconstitution date” means the date published by notice of the Board under paragraph 4(2A).” 40

- (2) In paragraph 3(3), for “date of the local general election” substitute “day before the reconstitution date”.
- (3) At the end of paragraph 3 add –
- “(7) Where a political member ceases to hold office at any time during the transitional period, no appointment shall be made to fill the casual vacancy; and paragraph 2 and sub-paragraph (1) of this paragraph shall have effect subject to this sub-paragraph.” 5
- (4) In paragraph 4, after sub-paragraph (2) insert –
- “(2A) Where, following a local general election, the Board has completed the appointment of the independent members of the sub-group for a police district, it shall publish notice of the date which is to be the reconstitution date in relation to the sub-group for that police district. 10
- (2B) Notice under sub-paragraph (2A) shall be published in such manner as appears to the Board appropriate for bringing it to the attention of interested persons.” 15
- (5) In paragraph 4(4), for “date of the local general election” substitute “day before the reconstitution date”.
- (6) At the end of paragraph 4 add –
- “(8) Where an independent member ceases to hold office at any time during the transitional period, no appointment shall be made to fill the casual vacancy; and paragraph 2 and sub-paragraphs (1) and (2) of this paragraph shall have effect subject to this sub-paragraph.” 20
- Removal of members of sub-group from office* 25
- 3 In paragraph 7(1) (removal of members of sub-group), for head (c) substitute –
- “(c) he has been convicted in Northern Ireland or elsewhere after the date of his appointment of a criminal offence (whether committed before or after that date);” 30
- Chairman and vice-chairman of sub-group*
- 4 For paragraph 9 (chairman and vice-chairman of sub-group) substitute –
- “*Chairman and vice-chairman*
- 9 (1) For each sub-group there shall be a chairman appointed by the council from among the political members. 35
- (2) In making appointments to the office of chairman, the council shall ensure that, so far as is practicable –
- (a) a person is appointed to that office for a term of 12 months at a time or, where that period is shorter than 18 months, for a period ending with the reconstitution date next following his appointment; 40

- (b) that office is held in turn by each of the four largest parties represented on the council immediately after the last local general election.
- (3) Subject to the following provisions of this paragraph, a person shall hold and vacate office as chairman in accordance with the terms of his appointment. 5
- (4) A person may at any time resign as chairman by notice in writing to the council.
- (5) If the chairman ceases to be a member of the sub-group, he shall also cease to hold office as chairman. 10
- 9A (1) For each sub-group there shall be a vice-chairman elected by the independent members from among such members.
- (2) The election of a vice-chairman shall be conducted in accordance with procedures determined by the sub-group under paragraph 14(4). 15
- (3) Subject to the following provisions of this paragraph, a person shall hold and vacate office as vice-chairman in accordance with such terms as the Board may determine.
- (4) In determining terms under sub-paragraph (3), the Board shall ensure that, so far as is practicable, a person holds office as vice-chairman for a term of 12 months at a time or, where that period is shorter than 18 months, for a period ending with the reconstitution date next following his election to that office. 20
- (5) A person may at any time resign as vice-chairman by notice in writing to the Board. 25
- (6) If the vice-chairman ceases to be a member of the sub-group, he shall also cease to hold office as vice-chairman.”

Northern Ireland (St Andrews Agreement) Bill

A

B I L L

To make provision for preparations for the restoration of devolved government in Northern Ireland in accordance with the St Andrews Agreement; to make provision as to the consequences of compliance, or non-compliance, with the St Andrews Agreement timetable; to amend the Northern Ireland Act 1998; to make provision about district policing partnerships; to amend the Education (Northern Ireland) Orders 1997 and 2006; and for connected purposes.

*Presented by Mr Secretary Hain
supported by
The Prime Minister,
Mr Chancellor of the Exchequer,
Secretary John Reid, Secretary Des Browne,
Mr David Hanson and Ms Harriet Harman.*

*Ordered, by The House of Commons,
to be Printed, 16th November 2006.*

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PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS
LONDON – THE STATIONERY OFFICE LIMITED
Printed in the United Kingdom by
The Stationery Office Limited
£x.xx

Bill 7

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NORTHERN IRELAND (ST ANDREWS AGREEMENT) BILL

EXPLANATORY NOTES

INTRODUCTION

1. These explanatory notes relate to the Northern Ireland (St Andrews Agreement) Bill as introduced in the House of Commons on 16 November 2006. They have been prepared by the Northern Ireland Office in order to assist the reader of the Bill and to help inform debate on it. They do not form part of the Bill and have not been endorsed by Parliament.

2. The notes need to be read in conjunction with the Bill. They are not, and are not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause does not seem to require any explanation or comment, none is given.

SUMMARY AND BACKGROUND

3. The Bill gives legislative effect to particular elements of the St Andrews Agreement, which was reached on 13th October 2006 following negotiations between the British and Irish Governments and the Northern Ireland political parties.

4. The Northern Ireland Act 1998 (“the 1998 Act”) had enshrined in legislation the fundamental principles of the Belfast (Good Friday) Agreement and made provisions for the institutions necessary to deliver them, primarily the Northern Ireland Assembly (“the Northern Ireland Assembly”), the devolved Executive Committee, North-South and East-West collaborative institutions and new Equality and Human Rights Commissions for Northern Ireland.

5. The new devolved institutions, after a period in shadow format, came into being on 2 December 1999. Due to a breakdown in trust between the parties within the Executive coalition, devolution was suspended in October 2002 and has remained in suspension ever since. During that period, the British and Irish Governments have sought to find a way of rebuilding that trust to enable the parties once more to go into government together.

6. To do this, two main issues had to be resolved – the need for support for policing and the rule of law across the whole community which would enable, in due course, the safe devolution of policing and justice to the restored Assembly and changes to the operation of the Good Friday Agreement’s institutions to make them effective and responsive as allowed for in that Agreement.

7. On 8 May 2006, the Northern Ireland Act 2006 received Royal Assent. That Act recalled the Members of the Northern Ireland Assembly to sit in a “2006 Assembly” whose focus was to provide a forum for the parties to begin preparations for devolved Government. It set a deadline of 24 November 2006 for the parties to have made sufficient progress to allow for devolution to be fully restored.

8. The current Bill, which gives effect to the St Andrews Agreement of 13 October 2006, builds on that legislation, in particular by creating a further “Transitional Assembly” which will sit from 25 November 2006 and by setting out the arrangements to facilitate a return to devolved government within Northern Ireland.

OVERVIEW

Part 1: Preparations for the restoration of devolved government

9. This Part of the Bill makes provision for a new Transitional Assembly, which will operate between the coming into force of this Bill, and 26 March 2007, which is the target date for restoration of the Northern Ireland Assembly. It also deals with the consequences of compliance or non-compliance with the St Andrews Agreement timetable.

10. Part 1 of the Bill also makes provision for the election of the next Assembly. The Assembly will be dissolved on 30 January 2007 and the poll will be held on 7 March 2007. It also disapplies the requirement for a by-election to be held in respect of any Assembly vacancy which exists in the period between the passing of the Bill and the date of the next Assembly election. And it adjusts the rules for remuneration of Assembly members to take account of the election.

Part 2: Amendments of the Northern Ireland Act 1998 etc

11. The purpose of this Part of the Bill is to amend the Northern Ireland Act 1998 (“the 1998 Act”) in accordance with the terms of the St Andrews Agreement of 13 October 2006. It will come into force if (and only if) devolved government is restored on 26 March 2007.

12. The Bill provides for a new Ministerial Code and places a duty upon Ministers and junior Ministers, notwithstanding their executive authority in their areas of responsibility, to act in accordance with the provisions on ministerial accountability of

the Code. This Part of the Bill also makes provision in relation to which matters should fall to the Executive Committee for discussion and agreement. It ensures that changes to the Code must be agreed by the Executive Committee and then proposed to the Assembly by the First and deputy First Ministers. Any changes would have effect once endorsed by cross-community support there.

13. It also amends the 1998 Act to allow the Assembly to refer important Ministerial decisions to the Executive Committee. It does this by enabling thirty members of the Assembly (“MLA”s) to initiate such a referral within seven days of a Ministerial decision or notification of the decision.

14. It amends the pledge of office, which all Ministers must make before taking up office, to require commitments to: uphold the rule of law, consistent with paragraph 6 of the St Andrews Agreement; to promote the interests of the whole community represented in the Assembly towards the goal of a shared future; to participate fully in the Executive Committee, the North-South Ministerial Council (“the NSMC”) and the British Irish Council (“the BIC”); and to observe the joint nature of the offices of the First and deputy First Ministers.

15. It creates new arrangements for the appointment of the First and deputy First Ministers, who are to be nominated by the largest parties in each of the two largest designations within the Assembly. It provides for an institutional review committee to consider whether these new arrangements should continue to apply beyond the next Assembly election and to consider other aspects of the operational workings of Parts 3 and 4 of the 1998 Act. It also puts the non-statutory Committee of the Centre, which operated in the Assembly prior to suspension, on a statutory footing.

16. It amends the provisions of the 1998 Act that deal with the NSMC and BIC, providing for the Minister or junior Minister responsible for an issue under consideration at a Council meeting to be entitled to attend, and setting out the arrangements to apply in circumstances where the responsible Minister or junior Minister does not intend to attend or where there is a dispute over who is responsible.

17. It places a duty on the restored Assembly to report to the Secretary of State before 27 March 2008 on progress towards the devolution of policing and justice matters. This is consistent with the end of May target for the Assembly to request the devolution of criminal justice and policing from the British Government, set out in paragraph 7 of the St Andrews Agreement.

18. Finally, this part of the Bill places duties on the Executive to adopt strategies relating to the Irish and Ulster Scots languages, Ulster Scots heritage and culture, and poverty and social exclusion.

Part 3: Other amendments

19. This Part of the Bill makes provision in relation to District Policing Partnerships (“DPP”s) and in particular enables DPPs to be reconstituted to include Sinn Fein membership, as necessary, before the next local election in Northern Ireland.

20. Part 3 of the Bill also provides for an amendment to the Education (Northern Ireland) Order 2006 (S.I. 2006/1915 (N.I. 11)). This amendment defers the commencement of provisions to abolish academic selection in that Order until 26 March 2007, which is the target date for the restoration of devolution. In the event of the restoration of the devolved institutions on this date, the commencement of the provision abolishing academic selection would be subject to an affirmative resolution of the Assembly. If the Assembly is not restored on that date the abolition of academic selection will commence immediately. In either case the abolition will take effect in relation to admissions from 31 July 2010 onwards. This Part also makes provision consequential on that measure.

Part 4: Supplemental

21. This Part of the Bill deals with supplementary provisions, including the repeal of the Northern Ireland Act 2006 and the Parliamentary procedures to apply to consequential, supplementary and similar orders made under the Bill, as well as dealing with commencement arrangements.

TERRITORIAL EXTENT

22. Sections 20, 21 (together with Schedules 8 and 9) and 22 extend to Northern Ireland only. The rest of the Bill extends to the whole of the UK.

TERRITORIAL APPLICATION: WALES

23. The Bill does not have any special effect on Wales and does not affect the National Assembly for Wales.

COMMENTARY ON CLAUSES

PART 1: PREPARATIONS FOR THE RESTORATION OF DEVOLVED GOVERNMENT

Clause 1: Preparations for the restoration of devolved government

24. Clause 1 provides for the creation of a new “Transitional Assembly”. Clause 1(a) provides that the members of the Transitional Assembly will be the members of the Northern Ireland Assembly (which is currently suspended under the Northern Ireland Act 2000). Clause 1(b) makes clear that the purpose of the Transitional Assembly is to take part in preparations for the restoration of devolved government in Northern Ireland, in line with the strategy set out in the St Andrews Agreement.

25. Subsection (2) of Clause 1 introduces Schedule 1 to the Bill, which makes further provision in relation to the Transitional Assembly. Subsection (3) states that the Bill does not alter the operation of section 1 of the Northern Ireland Act 2000 (“the 2000 Act”). This means that direct rule remains in force until the making of a restoration order. Limited exceptions to this are set out in subsection (4), which enables, in particular, nomination of First and Deputy First Ministers to the Northern Ireland Assembly, and full restoration of devolved government and the repeal of the 2000 Act under Schedules 2 and 4.

Clause 2: Compliance or non-compliance with the St Andrews Agreement timetable

26. Clause 2 makes provision for bringing into force Schedules 2 to 4. Schedules 2 and 3 respectively provide for, amongst other things, the restoration, or alternatively, dissolution of the Northern Ireland Assembly. Under subsection (1), if, at any time before 25 March 2007, the Secretary of State considers that there is no reasonable prospect that an Executive will be formed on 26 March 2007, he may make an order bringing Schedule 3 of the Bill into force (which would in effect provide for the dissolution of the Assembly and the indefinite postponement of Assembly elections).

27. If the Secretary of State does not make an Order under subsection (1) before 25 March 2007, subsection (2) requires him to make a restoration order (under section 1 of the 2000 Act), and brings Schedule 2 into force on 26 March 2007. Schedule 4 – which provides for the repeal of the 2000 Act – will come into force on 28 March so long as an Executive is formed on 26 March.

28. Subsections (3) and (4) provide for a scenario where the Secretary of State has made a restoration order, but it appears to him that not all of the Ministerial offices of the Northern Ireland Executive have been filled by the end of 26 March. In these circumstances, the Secretary of State must make an order under the 2000 Act

revoking the restoration order and this must come into force on 28 March 2007, at the same time as Schedule 3.

Clause 3: Next Northern Ireland Assembly election to be in March 2007 etc

29. Clause 3 makes provision for the election of the next Assembly. It specifies that the current Assembly (i.e. that elected on 26 November 2003) should be dissolved on 30 January 2007 and sets the date of the poll for the election to the next Assembly as 7 March 2007.

30. Subsections (2) and (3) disapply Article 7 of the Northern Ireland Assembly (Elections) Order 2001 (“the Elections Order”). The Elections Order makes provision for cases where the Speaker of the Assembly notifies the Chief Electoral Officer (“the CEO”) of a vacancy in the membership of the Assembly, or a court notifies the CEO of a successful challenge to the election of a person to the Assembly. Where the CEO receives such a notification, Article 7 would normally require him to call a by-election for the vacant seat. This requirement is disappplied by clause 3 in respect of any vacancy which exists between the passing of the Bill (including vacancies that have arisen before the passing of this Bill) and the date of the next Assembly election. This affects the Transitional Assembly membership because of the effect of clause 1(1)(a).

Clause 4: Remuneration of members of the Assembly

31. This clause authorises the payment of salaries and allowances to former Members of the Assembly after it is dissolved in February 2007 and before the March 2007 election and the payment of salaries and allowances to members elected in March 2007.

32. Specifically, subsection (2) enables provisions to be made for former Members to receive salaries and allowances up to the last nomination day for the March 2007 election, and, if nominated, up to the end of the day of the poll for that election.

33. Also, subsections (3) and (4) ensure that members of the Assembly who are elected in March 2007 can receive their salaries from the date (following the election) on which they take their seats in the Transitional Assembly.

PART 2: AMENDMENTS OF THE NORTHERN IRELAND ACT 1998 ETC

Ministerial conduct

Clause 5: The Executive Committee and the Ministerial Code

34. Section 20 of the 1998 Act makes provision for there to be an Executive Committee of the Northern Ireland Assembly and specifies that the functions of that Committee shall be those set out in paragraphs 19 and 20 of Strand One of the Belfast Agreement. This means that the Executive Committee is to provide the forum for the discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers, for prioritising executive and legislative proposals and for

recommending a common position where necessary (e.g., in dealing with external relationships). It is also charged with seeking to agree each year, and review as necessary, a programme for government incorporating an agreed budget linked to policies and programmes.

35. Consistent with the St Andrews Agreement, clause 5(1) adds a new subsection to section 20 to provide that the Committee shall also be the forum for discussion and agreement on significant or controversial matters that are clearly outside the scope of the programme of government agreed by the Committee, or significant or controversial matters that the First and deputy First Ministers acting jointly have determined to be matters that should fall to the Executive Committee.

36. Subsection (2) of clause 5 inserts a new section 28A into the 1998 Act. The new section provides for a statutory Ministerial Code and places a duty on all Ministers and junior Ministers to act in accordance with the provisions of that Code (new section 28A(1)). In this new section, “Ministerial Code” refers either to the Ministerial Code prepared by the Transitional Assembly under paragraph 4 of Schedule 1 to this Bill or to any replacement Code prepared and approved by the Northern Ireland Assembly in accordance with section 28A. Subsections (3) and (4) of section 28A set out that any draft amendments to the Code, or any draft replacement Code prepared by the Executive Committee, must be laid before the Assembly for approval and shall only have effect once approved by a cross-community vote in the Assembly.

37. Breach of the duty to act in accordance with the Ministerial Code would constitute a breach of the pledge of office, and so where a Minister or junior Minister has not acted in accordance with the Code it would be open to the Assembly to impose any sanction available to them for breach of the pledge. The available sanctions are censure, reduction of remuneration and exclusion from office.

38. Subsections (5) to (9) of new section 28A relate to the content of the Code, and specify that the Code must contain certain provisions in relation to Ministerial accountability to the Executive.

39. Subsection (5) of new section 28A sets out that the Code must contain a provision to require all Ministers and junior Ministers to bring to the attention of the Executive Committee any matter that ought to be considered by the Committee under subsection (3) or (4) of section 20 of the 1998 Act. This new provision is not intended to alter an individual Minister’s authority in his area of responsibility, but rather to ensure that Ministerial decisions do not contravene any collective position agreed by the Executive Committee on a matter that falls to them by virtue of section 20 of the 1998 Act.

40. Subsection (6) of section new 28A builds on (5) and requires the Code to set out a procedure to enable a Minister to determine whether any Ministerial decision that he is about to take or has taken, relates to a matter that ought to be considered by

the Executive Committee under section 20 of the 1998 Act. It is intended to provide clarity in advance for Ministers primarily to avoid them breaching the provisions of the Code inadvertently. It does not affect the Executive's competence at the expense of individual Ministers' executive authority within their areas of responsibility. The Code, as at present, will determine what is, and is not, for the Executive in line with the provision of paragraphs 19 and 20 of Strand One to the Belfast Agreement and new section 20(4) of the 1998 Act. Subsection (6) establishes a procedure for clarifying that.

41. Subsection (7) of new section 28A requires the Code to put in place procedures for the Executive Committee in relation to the taking of decisions and in relation to the Committee's consideration of decision papers that are due for consideration by the North-South Ministerial Council or by the British Irish Council.

42. Subsection (8) of new section 28A requires the Code to place a duty on the First and Deputy First Ministers, as chairmen of the Executive Committee, to seek to facilitate and encourage consensus within that Committee where possible. Where consensus cannot be reached on a given issue a vote may be taken and it will be open to any three members of the Committee to require that the vote should require cross-community support in the Committee.

43. Subsection (9) of new section 28A provides that the Code may also include other provisions that the Executive Committee thinks fit (subject, of course, to any Assembly cross-community approval required under subsection (4)).

44. Subsection (10) provides that a Minister or junior Minister does not have authority to take any decision that contravenes a provision of the Ministerial Code under subsection (5).

Clause 6: Power to refer Ministerial decision to the Executive Committee

45. Clause 6 inserts a new section 28B into the 1998 Act, to establish a new procedure by which a Ministerial decision may be referred to the Executive Committee for consideration.

46. This new section applies where thirty MLAs raise a petition of concern in the Assembly that a Ministerial decision may have been taken in contravention of the Ministerial Code or that it relates to a matter of public importance. The decision can only be referred to the Committee once under this section.

47. New section 28B(3) of the 1998 Act places a duty on the Presiding Officer to refer the Ministerial decision to the Executive Committee for consideration, if he has first both consulted the parties and certified that the decision relates to a matter of public importance. These two conditions, along with the bar on repeat referrals, offer protection against the vexatious or malicious exercise of the referral power. Subsection (5) establishes a time limit on referrals and specifies that any referral to the Executive Committee under this section must be made within seven days of the

decision being taken, or, if later, within seven days of the day on which the decision was notified to the Assembly.

48. Subsection (4) of section 28B of the 1998 Act requires the Executive Committee to consider any referral under this section and then notify the Presiding Officer whether in its view the decision was taken in contravention of the Code, whether it relates to a significant or controversial matter and what, if any, action the Committee intends to take or has taken.

49. Section 28B does not specify what action the Committee can take. However, if it concluded that the decision was taken in breach of the Code, it could propose a motion (to be passed only with cross-community support) that any of the sanctions for breach of the pledge of office available under the 1998 Act be imposed upon the relevant Minister. If the Committee concluded that the decision did not breach the Code but that it related to a significant or controversial matter it could, for example, decide that the matter should fall to it in future for consideration.

50. Subsection (6) specifies that the Committee must complete its consideration of any decision within seven days of the referral.

Clause 7: Pledge of Office

51. Clause 7 amends the pledge of office, as set out in Schedule 4 to the 1998 Act, which all Ministers are required to make on taking up office. Under this clause Ministers are required to make four new commitments as conditions of office. They must uphold the rule of law (including by supporting policing and the courts as set out in paragraph 6 of the St Andrews Agreement), promote the interests of the whole Northern Ireland community, participate fully in the Executive Committee, the NSMC and the BIC, and observe the joint nature of the offices of First Minister and deputy First Minister.

Ministerial appointments

Clause 8: First Minister, deputy First Minister and Northern Ireland Ministers

52. Clause 8 puts in place new arrangements for appointing the First and deputy First Ministers following an Assembly election. Subsection (1) substitutes new sections 16A, 16B and 16C for existing section 16 of the 1998 Act. These provisions need to be read in conjunction with clause 11 and, in particular, the new section 29B.

53. The new arrangements for filling the positions of First and deputy First Ministers after an election are provided for in the new section 16A.

54. Under the new section 16A, the First Minister is nominated by the largest party within the largest political designation (see new section 16A(4)); the deputy First Minister is nominated by the largest party within the next largest designation (see new section 16A(5)). (“Designation” is the term used to refer to the group of MLAs who have designated themselves as “Nationalist” or “Unionist” or neither (in

which case they are designated “Other”). – see new section 16C.) Once these nominations have been made, the d’Hondt procedure for filling Ministerial offices, set out in section 18 of the 1998 Act, is run. These procedures take place within seven days following the first meeting of the Assembly after an election (new section 16A(3)) and may be re-run if the individuals nominated do not take up office within a period to be specified in standing orders (new section 16A(6) and (7)).

55. New section 16A(9) provides that the people nominated for the offices of First Minister and deputy First Minister cannot take up office until they have each affirmed the terms of the pledge of office. New section 16A(11) sets out arrangements that allow the holder of either office to designate another Northern Ireland Minister to carry out his functions if he is absent or incapacitated; but this can only be for a maximum of six weeks.

56. New section 16B applies where a vacancy arises in the office of First or deputy First Minister otherwise than following an Assembly dissolution or election. As at present, either the First Minister or the deputy First Minister may resign at any time by notice in writing to the Presiding Officer (new section 16B(1)(a)), and will also cease to hold office if he ceases to be a Member of the Assembly (new section 16B(1)(b)). If one of the office holders ceases to hold office, the other technically does as well (because the offices are jointly operated - see new section 16B(2)(a)) but he may continue to exercise the functions of the office to ensure continuity of government (new section 16B(2)(b)). The procedure for filling vacancies where this section applies mirrors the procedure set out in new section 16A for filling the offices after an election.

57. The new section 16C makes supplementary provision for the appointment of the First and deputy First Ministers. It clarifies who is entitled to make nominations on behalf of a party (subsection (1) defines the “nominating officer” in line with the provisions of the Political Parties, Elections and Referendums Act 2000), defines party designation (new section 16C(3)) and sets out how party size and designation size are calculated (new section 16C(2), (4) and (5)).

58. New section 16C(6) deals with the arrangements that apply if the largest party within the largest designation is not the largest party within the Assembly. In such circumstances, the responsibility for nominating the First Minister falls to the largest party within the Assembly, with the largest party in the largest designation then nominating the deputy First Minister.

59. New section 16C(7) to (12) deals with the arrangements that apply if a party is entitled to make nominations under new section 16A but its members have been excluded from holding Ministerial office under section 30(2) or 30A(5) of the 1998 Act. The size of the party is counted as nil, so that the party’s right to nominate the

First or deputy First Minister passes to the next largest party within the same designation (new section 16C(7) and (8)). The calculation of designation size is not affected.

60. New section 16C(9) provides that the incumbent First and deputy First Ministers both cease to hold office if either of their predecessors ceased to hold office as a result of an exclusion order under section 30(2) or 30A(5) and that period of exclusion comes to an end (unless any period of exclusion of the party under the other provision has not come to an end). The procedure in new section 16B will be used to fill the resulting vacancies.

61. New section 16C(11) and (12) define the time periods that are to apply to the foregoing subsections. New section 16C(13) provides for standing orders to make further provision as to the procedures to be following in making nominations under new sections 16A and 16B.

62. Clause 8(2) provides for the consequential amendments set out in Schedule 5 to have effect.

Clause 9: Department with policing and justice functions: nomination etc of Ministers

63. Clause 9 gives effect to Schedule 6 to the Bill. Schedule 6 amends Schedule 2 to the Northern Ireland (Miscellaneous Provisions) Act 2006, which itself inserts new Schedule 4A (department with policing and justice functions) into the Northern Ireland Act 1998. New Schedule 4A establishes alternative departmental structures for any new department with policing and justice functions, and the amendments made by Schedule 6 to the Bill make further provision about ministerial appointments to the new department.

Committees

Clause 10: Statutory committee for Office of First Minister and deputy First Minister

64. Clause 10 makes amendments to section 29 of the 1998 Act to provide for the establishment of a statutory committee to advise and assist the First and deputy First Ministers in the formulation of policies in relation to their responsibilities as the Ministers jointly in charge of the Office of the First Minister and deputy First Minister. The effect of this clause is to put the former non-statutory “Committee of the Centre”, which was in operation prior to the suspension of the Northern Ireland Assembly, on a statutory footing.

Clause 11: Committee to review functioning of Assembly and Executive Committee

65. Clause 11 provides for a Committee to review the functioning of the Assembly and the Executive Committee.

66. Subsection (1) inserts a new section 29A and 29B into the 1998 Act to require the Assembly to establish a Committee to review the functioning of the Assembly and the Executive Committee. The detailed practical arrangements for the committee's operation are a matter for standing orders (new section 29A(1)), which are required to provide for the committee to make reports to the Assembly and to the Executive Committee (new section 29A(2)).

67. New section 29A(3) requires the new committee to make a report on the operation of the provisions of Parts 3 and 4 of the 1998 Act (which deal respectively with the devolved executive authorities and the Assembly) to the Secretary of State, the Assembly and the Executive Committee. The report might, for example, consider whether any changes should be made to the provisions for appointing Ministers, the provisions dealing with the exclusion of individuals and parties from holding Ministerial offices, and the arrangements for dealing with the calculation of cross-community support within the Assembly.

68. New section 29B(1) provides that standing orders must require the committee to consider the operation of the new arrangements for appointing Ministers (provided for in the new sections 16A to 16C, inserted by clause 8) and whether, in particular, these should continue in operation beyond the Assembly election in 2011 or whether the arrangements should revert to those set out in section 16 of the 1998 Act. The procedure to be followed if it recommends the latter is set out in subsections (2) to (5) of clause 11. In particular, if the recommendation receives cross-community support in the Assembly, subsection (2) requires the Secretary of State to bring forward an order to amend the 1998 Act and any other enactment so far as necessary to ensure that the procedure reverts to the section 16 one.

NSMC and BIC

Clause 12: North-South Ministerial Council and British-Irish Council

69. Clause 12 substitutes new sections 52A, 52B and 52C for section 52 of the 1998 Act, which deals with the North-South Ministerial Council and the British-Irish Council.

70. New section 52A(1) places a duty on the First and deputy First Ministers to ensure that the Executive Committee and Assembly are made aware of the date and agenda of forthcoming meetings of the NSMC or BIC and of the name of the Ministers or junior Ministers who are to attend the meeting.

71. New section 52A(2) provides that a Minister or junior Minister with responsibility for a matter included on the agenda for a meeting of either the NSMC or BIC shall be entitled to attend and participate in the meeting. He may also, under new section 52A(3), nominate another Minister or junior Minister to attend in his place. The responsible Minister or junior Minister is required (under new section 52A(4) and (6)) to notify the First and deputy First Ministers as to whether he intends to attend the meeting or to nominate someone to attend in his place, or neither. Where

the First and deputy First Ministers haven't received notification under the section that the responsible Minister or junior Minister or a substitute will attend the meeting, new section 52A(5) places a duty on the First and deputy First Ministers to nominate someone to attend and participate in the meeting. The First and deputy First Minister are also obliged, as necessary, to make nominations of other Ministers or junior Ministers to attend to ensure cross-community participation in the meeting (see section 52A(7)).

72. New sections 52A (8) and (9) provide that when a matter for discussion at either Council is one that ought to be considered by the Executive Committee (by virtue of section 20(3) and new section 20(4) of the 1998 Act, the First Minister and deputy First Minister may attend the meeting, in addition to the Minister with lead responsibility or a Minister nominated under new section 52A(3).

73. New section 52B(1) and (2) requires Ministers and junior Ministers to participate in NSMC and BIC meetings they are attending. New section 52B(3) requires the responsible Minister or junior Minister to ensure that any other Minister or junior Minister attending an NSMC or BIC meeting in his place has access to whatever information is necessary to enable that person to participate fully in the meeting. However, if the lead Minister has provided insufficient information to enable the nominated Minister's full participation, new section 52B(4) makes provision for the First Minister and deputy First Minister acting jointly to request the information. The lead Minister is obliged to comply with that request.

74. New section 52B(5) entitles a person who has been nominated to attend a meeting on behalf of another Minister or junior Minister to enter into arrangements and agreements on his behalf. New section 52B(6) provides that any Minister attending an NSMC or BIC meeting must act in accordance with any relevant decisions of the Assembly or Executive Committee.

75. New section 52C makes supplementary provision for the operation of new sections 52A and 52B, including providing for the First and deputy First Ministers acting jointly to determine which Minister or junior Minister has responsibility for a matter in the event of there being a dispute. It also places a duty on Ministers who attend either Council to make an oral report (unless standing orders authorise it to be made in writing) to both the Assembly and Executive Committee on their attendance.

Miscellaneous

Clause 13: Community designation

76. Clause 13 provides for section 4 of the 1998 Act to be amended to require standing orders of the Assembly to provide that an MLA may only change his community designation of "Nationalist", "Unionist" or "Other" if he changes his political party affiliation between elections.

Clause 14: Power of Executive Committee to call for witnesses and documents

77. Clause 14 inserts a new section 28C into the 1998 Act to give the Executive Committee the power to call for witnesses and documents. The section applies the provisions of section 44 of the 1998 Act (which provides the Assembly and its Committees with the power to compel witnesses and documents) to the Executive Committee with certain modifications. The power is exercisable in relation to senior civil servants working in Northern Ireland Departments where a matter falls within the Executive's functions under section 20(3) and (4) of the 1998 Act.

Clause 15: Strategies in relation to Irish language and Ulster Scots language etc

78. Clause 15 of the Bill inserts a new section 28D into the 1998 Act. Section 28D places a duty on the incoming Executive Committee to adopt a strategy relating to the enhancement and protection of the development of the Irish language and also to adopt a strategy relating to the enhancement and development of the Ulster Scots language, heritage and culture.

79. Subsection (3) of new section 28D of the 1998 Act provides for the Executive Committee to review and revise these strategies.

Clause 16: Strategy in relation to poverty and social exclusion

80. Clause 16 inserts a new section 28E into the 1998 Act. The new section places a duty on the Executive Committee to adopt a strategy for tackling poverty and social exclusion and patterns of deprivation; and for that strategy to be based on objective need.

81. Subsection (2) of new section 28E places a duty on the Executive Committee to keep the strategy under review, and gives the Executive Committee a power to revise the strategy or adopt a new strategy.

Clause 17: Vacancy in the Assembly

82. Clause 17 inserts a new paragraph 5 into Schedule 6 to the 1998 Act. This enables the Assembly to make standing orders preserving the exercise of the right to vote in the Assembly in cases where a vacancy in membership would otherwise prevent this right from being exercised. Paragraph 9(6) of Schedule 1 enables equivalent standing orders to be made for the Transitional Assembly. The standing orders could, for example, provide for voting in the Transitional Assembly to take account of any seats won by a party, but subsequently vacated and not filled as a result of clause 3(2).

Clause 18: Report on the progress towards devolution of policing and justice matters

83. Clause 18 places an obligation on the Assembly to provide a report to the Secretary of State before 27 March 2008 on its consideration of policing and justice matters. The report is to address:

These notes refer to the Northern Ireland (St Andrews Agreement) Bill as introduced in the House of Commons on 16th November 2006 [Bill 7]

- the preparations the Assembly has made, and intends to make, for the devolution of such matters;
- which of the matters the Assembly are likely to seek to be devolved; and
- whether a request is likely to be made before 1 May 2008 that responsibility for such matters should be devolved.

The Secretary of State must lay the report before Parliament.

84. Subsections (4) to (6) contain technical amendments to the definition of a “devolved policing and justice matter”. They remove the adjective “devolved” from the definitions contained in sections 4(2A), 4(6) and 21A(8)(b) of the 1998 Act (inserted by the Northern Ireland (Miscellaneous Provisions) Act 2006) to clarify that they remain reserved until devolved.

85. The clause does not affect any of the safeguards on the transfer of responsibility set out in section 4 of the 1998 Act, as amended by the Northern Ireland (Miscellaneous Provisions) Act 2006. It remains the case that the First Minister and deputy First Minister, acting jointly, must table a motion for a resolution of the Assembly that policing and justice matters be devolved; the Assembly must so resolve with cross-community support; the Secretary of State must concur and lay a draft order before Parliament; and Parliament must approve that order.

Clause 19: Minor and consequential amendments

86. Clause 19 gives effect to Schedule 7 which makes minor and consequential amendments relating to Part 2 of the Bill.

PART 3: OTHER AMENDMENTS

Policing

Clause 20: District policing partnerships

87. Clause 20 gives effect to Schedules 8 and 9 which make provision in relation to district policing partnerships, including Belfast sub-groups.

Education

Clause 21: Amendment of Education (Northern Ireland) Order 2006 etc

88. Clause 21 amends the Education (Northern Ireland) Order 2006 in relation to the abolition of academic selection.

89. Currently, the Education (Northern Ireland) Order 2006 includes provisions which prohibit the use of academic ability as an admissions criterion but defers the provisions’ commencement and makes them subject to an affirmative resolution of the

Assembly, provided the Assembly is restored by 24 November. Subsection (1) of clause 21 further defers the commencement of the provisions, in line with the St Andrews Agreement timetable.

90. In the event of the repeal of the Northern Ireland Act 2000 under Schedule 4 to this Bill, commencement of the provisions prohibiting academic selection will be subject to an affirmative resolution of the Assembly. However, if Schedule 3 to this Bill is invoked, the provisions will come into operation on that date. In either case the prohibition will take effect only in relation to admissions on or after 31 July 2010.

91. Clause 21 also provides that, if the Northern Ireland Act 2000 is repealed under Schedule 4, schools admissions regulations may make different provision for different descriptions of schools. This will ensure that a restored Assembly's options to agree new admissions arrangements are not constrained by a requirement for all types of schools to use the same admissions criteria.

PART 4: SUPPLEMENTAL

Clause 22: Repeal of the 2006 Act

92. Clause 22 repeals the Northern Ireland Act 2006 in its entirety. Without its repeal, the provisions of Schedule 3 to that Act would have come into immediate effect on 25 November 2006, with the result that the next election of the Northern Ireland Assembly would have been postponed indefinitely.

Clause 23: Power to make consequential provision etc

93. Clause 23 provides for the Secretary of State to make by order any supplementary, incidental or consequential provision and any transitional or saving provision that may be needed as a result of the Bill. The power is mainly intended to be used to make any changes that may be needed in consequence of the coming into force of Schedule 2 or 3, and for the transitional or savings provision that might be required as a result of the repeal of the 2000 Act.

Clause 24: Parliamentary procedure for orders under section 23

94. Clause 24 provides for the affirmative resolution procedure to apply to instruments made under clause 23, with the possibility of expedition, where an instrument contains amendments or repeals of Acts or Northern Ireland legislation. Otherwise, the negative resolution procedure applies.

SCHEDULE 1: THE TRANSITIONAL ASSEMBLY

95. Schedule 1 makes provision relating to the operation of the Transitional Assembly. Paragraph 1(1) provides that the Presiding Officer will have the authority to specify when and where the Transitional Assembly will meet and that the Assembly must meet on 24th November. Paragraph 1(2) provides that the Secretary of

State may instead direct the Transitional Assembly to meet at a certain time and place. It is envisaged that Paragraph 1(2) will be used only where it appears necessary to ensure the successful operation of the Transitional Assembly.

96. Paragraph 2(1) provides that proceedings in the Transitional Assembly will be conducted in accordance with the standing orders (as defined in paragraph 8). Paragraph 2(2) provides that the Secretary of State may direct that proceedings are conducted differently; again it is envisaged that this provision will only be used where necessary to ensure the successful operation of the Transitional Assembly.

97. Paragraph 3 provides for proceedings in the Transitional Assembly to include the nominations for the offices of First and Deputy First Ministers of the Northern Ireland Assembly. Both Ministers would take up office when the Northern Ireland Assembly is restored. Paragraph 3(2) makes clear that the nominations may still take place despite the Northern Ireland Assembly being suspended under the 2000 Act.

98. Paragraph 4 places a duty on the Secretary of State to prepare a draft Ministerial Code, in the event of failure on the part of the Transitional Assembly to prepare and approve the draft Ministerial Code before 24 March 2007. Any Code thus prepared would become Ministerial Code required by new section 28A of the 1998 Act, until amended or replaced under subsection (2)(a) of that section. The Code must comply with the requirements of section 28A(5) to (8) and may include other provisions.

99. Paragraph 5 requires the Transitional Assembly to prepare and approve a draft standing orders for the Northern Ireland Assembly, by means of cross-community support, before 24 March 2007. It specifies that once the draft standing orders have been approved under the process set out in *sub-paragraph (3)* (that is, with cross-community support) they shall become standing orders of the Northern Ireland Assembly.

100. *Sub-paragraph (4)* places a duty on the Secretary of State to prepare draft Standing Orders, in the event of failure on the part of the Transitional Assembly to prepare and approve draft standing orders before 24 March 2007. The standing orders thus prepared shall become the standing orders of the Northern Ireland Assembly, until amended or replaced by the Northern Ireland Assembly under section 41 of the 1998 Act.

101. *Sub-paragraph (5)* sets out the requirements of the draft standing orders prepared by the Secretary of State under *sub-paragraph (6)* and provides that such a Code must, so far as practicable, be in the form of the former standing orders of Northern Ireland Assembly immediately prior to suspension, but subject to any to any amendments to the standing orders approved by cross-community support in the

Transitional Assembly prior to 24 March 2007. In addition the standing orders must comply with the requirements set out in the 1998 Act (as it is to have effect on or after 26 March 2007) and may include other provisions.

102. Paragraph 6(1) provides that the Transitional Assembly will have a presiding officer and no more than three Deputy Presiding officers. Paragraphs 5(2) and (3) provide that the Presiding Officer and Deputy Presiding Officers of the Transitional Assembly will be those that held those offices in the Assembly established by the Northern Ireland Act 2006 immediately before Schedule 1 comes into force.

103. Paragraph 6(4) provides that the Transitional Assembly may elect a person to fill any vacancy in the office of Presiding Officer or Deputy Presiding Officer or replace current office-holders if members believe that he/she is unable, unfit or unwilling to perform his/her functions. Paragraph 6(5) provides that any such election must be by cross-community vote (as defined in paragraph 10). Paragraph 6(6) provides that the Secretary of State may appoint a Presiding Officer or Deputy Presiding Officer if a vacancy has arisen and the Transitional Assembly have not appointed someone to fill the vacancy within two weeks. If the Secretary of State believes that a Presiding Officer or Deputy Presiding Officer is unfit, unable or unwilling to perform his/her functions, and the Officer has not been replaced by the Transitional Assembly within 2 weeks, under paragraph 7 the Secretary of State may appoint a person to replace the Officer

104. Paragraph 7 provides that the Secretary of State must ensure the provision of staff, premises and other facilities, with sub-paragraph (2) providing for the cost of this to be paid out of the Consolidated Fund of Northern Ireland. Paragraph 8 provides for any statement made by a member for the purposes of the Assembly to be privileged from action for defamation, unless proved to have been motivated by malice.

105. Paragraph 9 deals with the standing orders of the Transitional Assembly (as opposed to the draft standing orders for the Northern Ireland Assembly that paragraph 5 provides for). Paragraph 9(2) provides that the initial standing orders shall be determined by the Secretary of State and notified to the Presiding Officer or any Deputy Presiding Officer. Paragraph 9(4) provides that the Transitional Assembly may amend or replace them, but cannot do so without cross-community support (as defined in paragraph 11). Paragraph 9(3) provides that the Secretary of State may add to or amend the standing orders but cannot do so in a manner inconsistent with any amendment made by the Transitional Assembly under paragraph 9(4). Paragraph 9(5) provides that the standing orders may include provisions similar to those of the Northern Ireland Assembly (under s.41 of the 1998 Act) or any direction made by the Secretary of State under paragraph 4 of schedule 1 to the 2006 Act.

106. Paragraph 9(6) provides that the standing orders may include provision under paragraph 5 of Schedule 6 to the 1998 Act (as amended by clause 17 of the Bill) which deals with any vacancy in the Assembly. Paragraph 9(7) also makes clear that

any provision made by the standing orders for the purposes of nominating a First and Deputy First Minister under paragraph 3, may include provision which is similar to those included sections 16A to 16C of the 1998 Act (as amended by clause 7 of the Bill).

107. Paragraph 9(8) ensures that the standing orders must cater for any additional nominations under paragraph 3 of Schedule 1, if a nomination made under paragraph 3 ceases to have effect.

108. Paragraph 10(1) provides that persons who are members of the Assembly established by the 2006 Act, immediately before Schedule 1 comes into force, will be deemed to have signed the roll of membership in the Transitional Assembly. Similarly, paragraph 9(2) provides that those same members will be deemed to have designated themselves Nationalist, Unionist or Other in the Transitional Assembly in line with their previous designation in the Assembly established by the Northern Ireland Act 2006. Paragraph 11 provides the definition of “cross-community support” referred to elsewhere in the Schedule.

SCHEDULE 2: RESTORATION OF DEVOLVED GOVERNMENT ON 26 MARCH 2007

109. Schedule 2 will come into force automatically on 25 March 2007, unless the Secretary of State has brought Schedule 3 into force before that date (see clause 2). Paragraph 2(1) ensures that when a restoration order under clause 2(2) comes into force, those who previously held Ministerial office (and certain other offices) at the time of suspension will not resume that office. Paragraph 2(2) and (3) makes clear that those nominated under Paragraph 3 of Schedule 1 will hold the offices of First Minister and Deputy First Minister when the restoration order comes into force. However, paragraph 1(4) is clear that those Ministers cannot take office until they have affirmed the pledge of office. Paragraph 1(5) requires the other Ministerial offices of the Northern Ireland Assembly to be filled by applying section 18(2) to (6) of the 1998 Act (i.e the d’Hondt mechanism) on 26th March 2007. When d’Hondt is run, under paragraph 5 of the Schedule, it is the first day on which the Transitional Assembly meets following the election that will be used to determine the number of Assembly seats held by members of the parties.

110. Paragraph 3 provides that the Presiding Officer and Deputy Presiding Officers of the Transitional Assembly immediately before restoration, shall be deemed to have been elected Presiding Officer and Deputy Presiding Officers of the Northern Ireland Assembly (under s.39(1) and (2) of the 1998 Act). This means that the Northern Ireland Assembly need not elect a Presiding Officer or Deputy Presiding Officers as its first business, but may choose to replace them at any point.

111. Paragraph 4 provides that the restoration order under clause 2(2) may make any other necessary provision required in order to carry forward the preparations for

devolution undertaken by the Transitional Assembly members, and treat them as having been undertaken by the Northern Ireland Assembly. For example, it could be used to avoid the need for members to sign the Roll again. Paragraph 4(2) disapplies section 2(3) of the 2000 Act, which provides that the Secretary of State must take account of a review conducted under the 2000 Act. This is to ensure that the restoration order can be made quickly.

112. Paragraphs 5 and 6 provide for modifications to how “d’hondt” is run in both section 29(3) of the 1998 Act (relating to Assembly Committees) and paragraph 7(7) of Schedule 1 to the Police (Northern Ireland) Act 2000 (relating to political members of the Northern Ireland Policing Board). In both Acts, the meaning of S is changed so that the day when the Assembly is considered to have first met becomes the first day the Transitional Assembly meets after the 7th March election.

113. Paragraph 7 provides that clauses 1(1) and (2) and Schedule 1 shall be repealed when Schedule 2 comes into force. This will ensure that the Transitional Assembly will cease to exist on 25th March 2007.

SCHEDULE 3: NON-COMPLIANCE WITH THE ST ANDREWS AGREEMENT TIMETABLE

114. Schedule 3 makes provision for the situation where an Executive is not formed in accordance with Schedule 2 or, before 25th March 2007, the Secretary of State considers that it will not be formed. Paragraph 1 of Schedule 3 provides for the dissolution of the Northern Ireland Assembly either side of the election provided for in clause 3.

115. Paragraph 2 substitutes section 31(2) of the 1998 Act. It provides that the next Northern Ireland Assembly election shall not be held until such time as the Secretary of State specifies by order. New section 31(2)(a) provides that, if Schedule 3 comes into force before the election provided for in clause 3, then that election will be indefinitely postponed. New section 31(2)(b) provides that, if Schedule 3 comes into force after the election provided for in clause 3, then the next election under s.31 of the 1998 Act will be indefinitely postponed.

116. The date of the rescheduled election, by virtue of new section 31(2A) of the 1998 Act, must be after the date specified under section 31(1) of the 1998 Act (that is, the first Thursday of May 2007).

117. New section 31(2B) to (2D) of the 1998 Act provides for the order to make amendments the Secretary of State considers appropriate and specifies that this may include: amending provisions of Acts (other than the 1998 Act) and of Northern Ireland legislation; making provision modifying the duties of the Chief Electoral

Officer for Northern Ireland; and making any supplementary, incidental or consequential provision.

118. Paragraph 3 sets out the provisions of the Bill that would be repealed if Schedule 3 came into force: section (1) and (2) and Schedule 1, providing for the end of the Transitional Assembly; section 3(1), ensuring that there will be no election; Schedule 2 and 4, ensuring that there will be no restoration and the 2000 Act will remain in force.

SCHEDULE 4: REPEAL OF THE 2000 ACT

119. Schedule 4 provides for the repeal of the 2000 Act, which provides the current legislative basis for suspension of the Northern Ireland Assembly (see also clause 2(5)). Paragraph 2 contains some saving provisions needed as a result of the repeal of the 2000 Act. Sub-paragraph (10) makes clear that the inclusion of sub-paragraphs (1) to (9) is not meant to limit the scope of consequential, transitional or saving provision that may be made by an order under clause 24 of the Bill.

120. *Sub-paragraphs (1) and (2)* of paragraph 2 largely replicate subsections (8) to (10) of section 3 of the 2000 Act. Paragraph 2(1) provides that the Northern Ireland Assembly shall not make a determination under section 47 of the 1998 Act (Northern Ireland Assembly salaries and allowances) in respect of any period of suspension, and paragraph 2(2) provides that the Northern Ireland Assembly also cannot annul or revoke any instrument made during suspension.

121. *Sub-paragraphs (3) to (5)* are designed to provide certainty in relation to legislation made during the period of Northern Ireland Assembly suspension. Paragraph 2(4) provides that the restoration order and the repeal of the 2000 Act will not affect the operation (on or after the coming into force of the restoration order) of Orders in Council that were made under paragraph 1(1) of the Schedule to the 2000 Act during suspension (that is, Orders on matters which are the responsibility of the Northern Ireland Assembly under the 1998 Act). Paragraph 2(5) provides that such Orders in Council should be read as Acts of the Northern Ireland Assembly so far as the context permits this (largely replicating paragraph 2(1) of the Schedule to the 2000 Act).

122. *Sub-paragraphs 2(5) and (7)* similarly provides that orders and determinations made under sections 6 and 7 of, or paragraph 9 of the Schedule to, the 2000 Act are not affected by the repeal of the 2000 Act. Paragraph 2(6) is intended to ensure that any consequential, transitional or saving provision included in the restoration order continues to operate despite the repeal of section 7(2) of the 2000 Act.

*These notes refer to the Northern Ireland (St Andrews Agreement) Bill
as introduced in the House of Commons on 16th November 2006 [Bill 7]*

123. *Sub-paragraph 2(8)* keeps alive the amendment of section 44 of the 1998 Act made by section 9(3) of the 2000 Act. That amendment would otherwise have been repealed as a result of the repeal of the 2000 Act under paragraph 2(1).

124. Paragraph 3 provides for the repeal of Schedule 3 in its entirety

SCHEDULE 5: EXECUTIVE SELECTION: CONSEQUENTIAL AMENDMENTS

125. Schedule 5 makes consequential amendments in relation to the arrangements for Ministerial appointments provided for in Clause 8.

126. Paragraph 2 amends section 18 of the 1998 Act to remove the trigger within it to run d'Hondt after an election (because this is superseded by the provisions of the new section 16A) and to bring the definition of "nominating officer" into line with the definition in Political Parties, Elections and Referendums Act 2000.

127. Paragraphs 3 to 7 make minor consequential amendments to ensure that the cross-references within the 1998 and 2000 Acts reflect the changed arrangements in new sections 16A to 16C.

128. Paragraphs 8 to 14 make consequential amendments to the Northern Ireland (Miscellaneous Provisions) Act 2006, Schedule 2 to which inserted a new Schedule 4A to the 1998 Act.

129. Paragraph 9 provides that, where the Assembly has established a Department with policing and justice functions in the charge of a Minister elected by resolution of the Assembly, that office is to be filled after the nominations of First and deputy First Minister under new section 16A of the 1998 Act but before the nominations of the Northern Ireland Ministers under section 18 of that Act. Paragraph 11 makes the same provision in relation to circumstances where the Assembly has established such a department in the charge of two Ministers and paragraph 13 does so in relation to circumstances where the Assembly has established such a department with rotation between the Minister and junior Minister. Paragraphs 10, 12 and 14 make minor consequential amendments to the cross-references within the Schedule.

SCHEDULE 6: DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS: NOMINATIONS ETC OF MINISTERS

130. Schedule 6 amends Schedule 2 to the Northern Ireland (Miscellaneous Provisions) Act 2006 by inserting new Schedule 4A (Department with policing and justice functions) to the Northern Ireland Act 1998.

131. Responsibility for policing and justice matters in Northern Ireland has been reserved to Westminster since the introduction of direct rule in 1972, but the Government has a longstanding commitment to devolve it when circumstances are right to do so. Schedule 4A of the 1998 Act adds three further possible models for a department with policing and justice functions to that already permitted under the 1998 Act. Schedule 6 to the Bill amends Schedule 4A, making identical changes to all three of these additional models as follows.

132. New paragraphs 3(3A), 7(3A) and 11(3A) of Schedule 4A to the 1998 Act provide that a member of the Assembly who is a member of a political party cannot be nominated by the First Minister and deputy First Minister to a ministerial post in a department with policing and justice functions without the consent of the nominating officer of the member's political party.

133. New paragraphs 3(9)(d), 7(9)(d) and 11(9)(d) of Schedule 4A to the 1998 Act provide that a Minister of the department with policing and justice functions shall cease to hold office if he is dismissed by the nominating officer of his own party. (Currently a Minister can be dismissed only by the First Minister and deputy First Minister).

134. New paragraphs 3(10A) – (10C), 7(10A) – (10C) and 11(11A) – (11D) of Schedule 4A to the 1998 Act provide that, in circumstances where a Minister ceases to hold office and the appointment of a successor alters the number of ministerial posts held by a political party, thereby distorting the balance achieved by the d'Hondt process, all Ministers shall cease to hold office and the d'Hondt process shall be run anew. The exception to this rule is in circumstances where a party dismisses its own Minister and declines to nominate a replacement or the nominated replacement does not take up office.

135. New paragraphs 3(14), 7(14) and 11(15) of Schedule 4A to the 1998 Act apply the definition of "nominating officer" set out in section 18(13) of the Northern Ireland Act 1998 (as substituted by paragraph 2(3) of Schedule 5 to the Bill) to these provisions.

SCHEDULE 7: NORTH-SOUTH MINISTERIAL COUNCIL ETC: CONSEQUENTIAL AMENDMENTS

136. Schedule 7 makes a number of minor and consequential amendments to the 1998 and 2000 Acts made necessary by the new and amended clauses contained in Part 2 of this Bill.

SCHEDULE 8: RECONSTITUTION OF THE DISTRICT POLICING PARTNERSHIPS

137. This Schedule sets out revised arrangements for the reconstitution of District Policing Partnerships (DPPs), which it is intended to use in the event that Sinn Fein should decide to support the policing institutions in Northern Ireland before the next Local Government Election. These provisions will be brought into force by a commencement order on a date to be determined by the Secretary of State.

138. Paragraph 2 places a requirement on the Northern Ireland Policing Board to review the membership of each DPP. The Board must consider the political membership, and in particular the balance of political parties prevailing on the date of coming into force of this Schedule. This review must be completed within fifteen days. On completion of the review the Board is required to submit a report of its findings to the Secretary of State and any report on a DPP should also be sent to the district council which established that DPP. The Board must also publish a list of the DPPs which it considers should be reconstituted, because the political members of the DPP do not reflect, so far as practicable, the balance of the parties prevailing among the members of the relevant council.

139. Paragraphs 3 and 4 set out the subsequent arrangements for the reconstitution of those DPPs affected by the Board's review. These paragraphs provide for the appointment of new political members and new independent members for those particular DPPs.

140. Paragraph 5 deals with any supplementary amendments including providing the Secretary of State with powers to take action if a district council fails to comply with the requirement to reconstitute its DPP.

SCHEDULE 9: DISTRICT POLICING PARTNERSHIPS: BELFAST SUBGROUPS

141. This Schedule amends Section 19 of and Schedule 1 to the Police (NI) Act 2003 bringing Schedule 3A to the Police (NI) Act 2000 into line with the District Policing Partnership (NI) Order 2005 for the Belfast Sub Groups.

FINANCIAL EFFECTS OF THE BILL

142. It is anticipated that any expenditure arising from this Bill will be met from within existing funding sources.

EFFECTS OF THE BILL ON PUBLIC SERVICE MANPOWER

143. The Bill is not expected to have any significant effect on public service manpower.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Introduction

144. Section 19 of the Human Rights Act 1998 (c.42) requires the Minister in charge of a Bill in either House of Parliament to make a statement about the compatibility of the provisions of the Bill with the Convention rights (as defined by section 1 of that Act). The Secretary of State has made the following statement:

“In my view the provisions of the Northern Ireland (St Andrews Agreement) Bill are compatible with the Convention rights”.

Discussion of ECHR issues

145. It is not thought that the Bill raises any significant Convention issues. For completeness, the implications of Article 3 of the First Protocol are discussed below.

146. Article 3 of the First Protocol states that:

“the High Contracting Parties undertake to hold free elections at reasonable intervals by secret ballot under conditions which will ensure the free expression of the opinion of the people of in the choice of the legislature

147. While certain of the provisions in the Bill may lead to the dissolution of the Assembly, and postponement of the next Assembly election, in fact its overall purpose is the enhancement of political accountability in Northern Ireland by restoration of devolved government. Dissolution of the Assembly, and the postponement of the next election will only occur in the event that the political parties are not able to form an executive within the framework of the St Andrews Agreement, contrary to the general purpose of the Bill. Further, the law in the United Kingdom allows for free elections to the Westminster Parliament, and for local elections, and in this context therefore, the requirements of Article 3 of the First Protocol are fully met in respect of Northern Ireland.

COMMENCEMENT

148. By virtue of section 27, the following provisions will come into force on Royal Assent:

- clause 1 (preparations for restoration of devolved government)
- clause 2 (compliance or non-compliance with St Andrews Agreement timetable)
- clause 3(2) and (3) (disapplication of by-election provisions for vacancies arising before next Assembly election)
- Part 4 (supplemental)
- Schedule 1 (the Transitional Assembly)

149. The following provisions will come into force on a day appointed by the Secretary of State:

- clause 4 (remuneration of members of the Assembly)
- clause 20(1) and Schedule 8 (reconstitution of district policing partnerships)

150. Schedules 2 to 4 (consequences of compliance or non-compliance with St Andrews Agreement timetable) shall only come into force in the circumstances specified in clause 2.

151. Subject to paragraph 3(1)(b) of Schedule 3, clause 3(1) (election of the next Northern Ireland Assembly to be in March 2007) will come into force on 26 January 2007.

152. Part 2 (amendments of the Northern Ireland Act 1998 etc), including Schedules 5 to 7, shall come into force on 26 March 2007 if (and only if) the Secretary of State makes a restoration order under section 2(2).

153. Clause 20(2) and Schedule 9 (district policing partnerships: Belfast sub-groups) will come into force in accordance with provision made by an order under the relevant policing legislation (section 19(2) of the Police (Northern Ireland) Act 2003).

154. Clause 21(2) (different selection criteria for different descriptions of school) will come into force only if Schedule 4 does (see clause 21(3) to (4)).

NORTHERN IRELAND (ST ANDREWS AGREEMENT) BILL

EXPLANATORY NOTES

*These notes refer to the Northern Ireland (St Andrews Agreement) Bill
as introduced in the House of Commons on 16th November 2006 [Bill 7]*

*Ordered, by The House of Commons, to be
Printed, 16th November 2006.*

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LONDON: THE STATIONERY OFFICE

Printed in the United Kingdom by
The Stationery Office Limited

£x.00