

Northern Ireland Act 1998

1998 CHAPTER 47

An Act to make new provision for the government of Northern Ireland for the purpose of implementing the agreement reached at multi-party talks on Northern Ireland set out in Command Paper 3883. [19th November 1998]

PART I PRELIMINARY

Status of Northern Ireland.

1. (1) It is hereby declared that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1.

(2) But if the wish expressed by a majority in such a poll is that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland, the Secretary of State shall lay before Parliament such proposals to give effect to that wish as may be agreed between Her Majesty's Government in the United Kingdom and the Government of Ireland.

Previous enactments.

2. The Government of Ireland Act 1920 is repealed; and this Act shall have effect notwithstanding any other previous enactment.

Devolution order

3. (1) If it appears to the Secretary of State that sufficient progress has been made in implementing the Belfast Agreement, he shall lay before Parliament the draft of an Order in Council appointing a day for the commencement of Parts II and III ("the appointed day").

(2) If the draft Order laid before Parliament under subsection (1) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.

Transferred, excepted and reserved matters.

4. (1) In this Act

"excepted matter" means any matter falling within a description specified in Schedule 2;

"reserved matter" means any matter falling within a description specified in Schedule 3;

"transferred matter" means any matter which is not an excepted or reserved matter.

(2) If at any time after the appointed day it appears to the Secretary of State

(a) that any reserved matter should become a transferred matter; or

(b) that any transferred matter should become a reserved matter,

he may, subject to subsection (3), lay before Parliament the draft of an Order in Council amending Schedule 3 so that the matter ceases to be or, as the case may be, becomes a reserved matter with effect from such date as may be specified in the Order.

(3) The Secretary of State shall not lay the draft of an Order before Parliament under subsection (2) unless the Assembly has passed with cross-community support a resolution praying that the matter concerned should cease to be or, as the case may be, should become a reserved matter

(4) If the draft of an Order laid before Parliament under subsection (2) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.

(5) In this Act

"the Assembly" means the New Northern Ireland Assembly, which after the appointed day shall be known as the Northern Ireland Assembly;

"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

(b) the support of 60 per cent of the members voting, 40 per cent of the designated Nationalists voting and 40 per cent of the designated Unionists voting;

"designated Nationalist" means a member designated as a Nationalist in accordance with standing orders of the Assembly and "designated Unionist" shall be construed accordingly.

PART II LEGISLATIVE POWERS

General

Acts of the Northern Ireland Assembly.

5. (1) Subject to sections 6 to 8, the Assembly may make laws, to be known as Acts.

(2) A Bill shall become an Act when it has been passed by the Assembly and has received Royal Assent.

(3) A Bill receives Royal Assent at the beginning of the day on which Letters Patent under the Great Seal of Northern Ireland signed with Her Majesty's own hand signifying Her Assent are notified to the Presiding Officer

(4) The date of Royal Assent shall be written on the Act by the Presiding Officer, and shall form part of the Act.

(5) The validity of any proceedings leading to the enactment of an Act of the Assembly shall not be called into question in any legal proceedings.

(6) This section does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland, but an Act of the Assembly may modify any provision made by or under an Act of Parliament in so far as it is part of the law of Northern Ireland.

Legislative competence.

6.-(1) A provision of an Act is not law if it is outside the legislative competence of the Assembly.

(2) A provision is outside that competence if any of the following paragraphs apply-

(a) it would form part of the law of a country or territory other than Northern Ireland, or confer or remove functions exercisable otherwise than in or as regards Northern Ireland;

(b) it deals with an excepted matter and is not ancillary to other provisions (whether in the Act or previously enacted) dealing with reserved or transferred matters;

(c) it is incompatible with any of the Convention rights;

(d) it is incompatible with Community law;

(e) it discriminates against any person or class of person on the ground of religious belief or political opinion;

(f) it modifies an enactment in breach of section 7

(3) For the purposes of this Act, a provision is ancillary to other provisions if it is a provision

(a) which provides for the enforcement of those other provisions or is otherwise necessary or expedient for making those other provisions effective; or

(b) which is otherwise incidental to, or consequential on, those provisions;

and references in this Act to provisions previously enacted are references to provisions contained in, or in any instrument made under, other Northern Ireland legislation or an Act of Parliament.

(4) Her Majesty may by Order in Council specify functions which are to be treated, for such purposes of this Act as may be specified, as being, or as not being, functions which are exercisable in or as regards Northern Ireland.

(5) No recommendation shall be made to Her Majesty to make an Order in Council under subsection (4) unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

Entrenched enactments.

7. (1) Subject to subsection (2), the following enactments shall not be modified by an Act of the Assembly or subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department-

(a) the European Communities Act 1972;

(b) the Human Rights Act 1998; and

(c) section 43(1) to (6) and (8), section 67, sections 84 to 86, section 95(3) and (4) and section 98.

(2) Subsection (1) does not prevent an Act of the Assembly or subordinate legislation modifying section 3(3) or (4) or 11(1) of the European Communities Act 1972.

(3) In this Act "Minister", unless the context otherwise requires, means the First Minister, the deputy First Minister or a Northern Ireland Minister-

Consent of Secretary of State required in certain cases.

8. The consent of the Secretary of State shall be required in relation to a Bill which contains-

- (a) a provision which deals with an excepted matter and is ancillary to other provisions (whether in the Bill or previously enacted) dealing with reserved or transferred matters; or
- (b) a provision which deals with a reserved matter.

Scrutiny and stages of Bills

Scrutiny by Ministers.

9.-(1) A Minister in charge of a Bill shall, on or before introduction of it in the Assembly, make a statement to the effect that in his view the Bill would be within the legislative competence of the Assembly.

(2) The statement shall be in writing and shall be published in such manner as the Minister making the statement considers appropriate.

Scrutiny by Presiding Officer.

10.-(1) Standing orders shall ensure that a Bill is not introduced in the Assembly if the Presiding Officer decides that any provision of it would not be within the legislative competence of the Assembly.

(2) Subject to subsection (3)-

- (a) the Presiding Officer shall consider a Bill both on its introduction and before the Assembly enters on its final stage; and
- (b) if he considers that the Bill contains-
 - (i) any provision which deals with an excepted matter and is ancillary to other provisions (whether in the Bill or previously enacted) dealing with reserved or transferred matters; or
 - (ii) any provision which deals with a reserved matter, he shall refer it to the Secretary of State; and
- (c) the Assembly shall not proceed with the Bill or, as the case may be, enter on its final stage unless-
 - (i) the Secretary of State's consent to the consideration of the Bill by the Assembly is signified; or
 - (ii) the Assembly is informed that in his opinion the Bill does not contain any such provision as is mentioned in paragraph (b)(i) or (ii).

(3) Subsection (2)(b) and (c) shall not apply-

- (a) where, in the opinion of the Presiding Officer, each provision of the Bill which deals with an excepted or reserved matter is ancillary to other provisions (whether in the Bill or previously enacted) dealing with transferred matters only; or
- (b) on the introduction of a Bill, where the Bill has been endorsed with a statement that the Secretary of State has consented to the Assembly considering the Bill.

(4) In this section and section 14 "final stage", in relation to a Bill, means the stage in the Assembly's proceedings at which the Bill falls finally to be passed or rejected.

Scrutiny by Judicial Committee

11. (1) The Attorney General for Northern Ireland may refer the question of whether a provision of a Bill would be within the legislative competence of the Assembly to the Judicial Committee for decision.

(2) Subject to subsection (3), he may make a reference in relation to a provision of a Bill at any time during

- (a) the period of four weeks beginning with the passing of the Bill; and
- (b) the period of four weeks beginning with any subsequent approval of the Bill in accordance with standing orders made by virtue of section 13(6).

(3) If he notifies the Presiding Officer that he does not intend to make a reference in relation to a provision of a Bill, he shall not make such a reference unless, after the notification, the Bill is approved as mentioned in subsection (2)(b).

(4) If the Judicial Committee decide that any provision of a Bill would be within the legislative competence of the Assembly, their decision shall be taken as applying also to that provision if contained in the Act when enacted.

PART III EXECUTIVE AUTHORITIES

Authorities

First Minister and deputy First Minister.

16.-(1) Each Assembly shall, within a period of six weeks beginning with its first meeting, elect from among its members the First Minister and the deputy First Minister.

(2) Each candidate for either office must stand for election jointly with a candidate for the other office.

(3) Two candidates standing jointly shall not be elected to the two offices without the support of a majority of the members voting in the election, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

(4) The First Minister and the deputy First Minister-

- (a) shall not take up office until each of them has affirmed the terms of the pledge of office; and
- (b) subject to the provisions of this Part, shall hold office until the conclusion of the next election for First Minister and deputy First Minister.

(5) 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
- (b) during any vacancy in that office arising otherwise than under subsection (7)(a);

but a person shall not have power to act by virtue of paragraph (a) for a continuous period exceeding 6 weeks.

(6) The First Minister or the deputy First Minister-

(a) may at any time resign by notice in writing to the Presiding Officer; and

(b) shall cease to hold office if he ceases to be a member of the Assembly otherwise than by virtue of a dissolution.

(7) 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

(b) may continue to exercise the functions of his office until the election required by subsection (8).

(8) Where the offices of the First Minister and the deputy First Minister become vacant at any time an election shall be held under this section to fill the vacancies within a period of six weeks beginning with that time.

(9) Standing orders may make provision with respect to the holding of elections under this section.

(10) 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 Annex A to Strand One of the Belfast Agreement (the text of which Annex is reproduced in Schedule 4).

Ministerial offices.

17. (1) The First Minister and the deputy First Minister acting jointly may at any time, and shall where subsection (2) applies, determine

(a) the number of Ministerial offices to be held by Northern Ireland Ministers; and

(b) the functions to be exercisable by the holder of each such office.

(2) This subsection applies where provision is made by an Act of the Assembly for establishing a new Northern Ireland department or dissolving an existing one.

(3) In making a determination under subsection (1), the First Minister and the deputy First Minister shall ensure that the functions exercisable by those in charge of the different Northern Ireland departments existing at the date of the determination are exercisable by the holders of different Ministerial offices.

(4) The number of Ministerial offices shall not exceed 10 or such greater number as the Secretary of State may by order provide.

(5) A determination under subsection (1) shall not have effect unless it is approved by a resolution of the Assembly passed with cross-community support.

Northern Ireland Ministers.

18.-(1) Where

- (a) an Assembly is elected under section 31 or 32;
 - (b) a determination under section 17(1) takes effect;
 - (c) a resolution which causes one or more Ministerial offices to become vacant is passed under section 30(2);
 - (d) the period of exclusion imposed by a resolution under section 30(2) comes to an end; or
 - (e) such other circumstances obtain as may be specified in standing orders,
- all Northern Ireland Ministers shall cease to hold office and the Ministerial offices shall be filled by applying subsections (2) to (6) within a period so specified.

(2) The nominating officer of the political party for which the formula in subsection (5) gives the highest figure may select a Ministerial office and nominate a person to hold it who is a member of the party and of the Assembly.

(3) If-

- (a) the nominating officer does not exercise the power conferred by subsection (2) within a period specified in standing orders; or
 - (b) the nominated person does not take up the selected Ministerial office within that period,
- that power shall become exercisable by the nominating officer of the political party for which the formula in subsection (5) gives the next highest figure.

(4) Subsections (2) and (3) shall be applied as many times as may be necessary to secure that each of the Ministerial offices is filled.

(5) The formula is-

$$S$$

$$1+M$$

where-

S = 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;

M the number of Ministerial offices (if any) which are held by members of the party.

(6) Where the figures given by the formula for two or more political parties are equal, each of those figures shall be recalculated with S being equal to the number of first preference votes cast for the party at the last general election of members of the Assembly.

(7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold a Ministerial office.

(8) A Northern Ireland Minister shall not take up office until he has affirmed the terms of the pledge of office.

(9) A Northern Ireland Minister shall cease to hold office if-

- (a) he resigns by notice in writing to the First Minister and the deputy First Minister;
- (b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or
- (c) he is dismissed by the nominating officer who nominated him (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(10) Where a ministerial office is vacant otherwise than by virtue of subsection (1), the nominating officer of the party on whose behalf the previous incumbent was nominated may nominate a person to hold the office who is a member of the party and the Assembly.

(11) If -

(a) the nominating officer does not exercise the power conferred by subsection 10 within a period specified in the standing orders; or

(b) the nominated person does not take up the office within that period, the vacancy shall be filled by applying subsections (2) to (6) within a period specified in standing orders.

(12) Where

(a) the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and

(b) the party's period of exclusion has not come to an end, the party shall be disregarded for the purposes of any application of subsections (2) to (6).

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Exclusion of Ministers from office

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(3) The Assembly may, before a period of exclusion comes to an end, resolve to extend it for twelve months beginning with the date of the resolution.

(4) A period of exclusion shall come to an end if the Assembly

(a) is dissolved; or

(b) resolves to bring the exclusion to an end.

(5) A motion for a resolution under this section shall not be moved unless

(a) it is supported by at least 30 members of the Assembly;

(b) it is moved by the First Minister and the deputy First Minister acting jointly; or

(c) it is moved by the Presiding Officer in pursuance of a notice under subsection (6).

(6) If the Secretary of State is of the opinion that the Assembly ought to consider

(a) a resolution under subsection (1)(a) in relation to a Minister or junior Minister; or

(b) a resolution under subsection (2)(a) in relation to a political party,

he shall serve a notice on the Presiding Officer requiring him to move a motion for such a resolution.

(7) In forming an opinion under subsection (6), the Secretary of State shall in particular take into account whether the Minister or junior Minister or the political party

(a) is committed to the use now and in the future of only democratic and peaceful means to achieve his or its objectives;

(b) has ceased to be involved in any acts of violence or of preparation for violence;

(c) is directing or promoting acts of violence by other persons;

(d) is co-operating fully with any Commission of the kind referred to in section 7 of the Northern Ireland Arms Decommissioning Act 1997 in implementing the Decommissioning section of the Belfast Agreement.

(8) A resolution under this section shall not be passed without crosscommunity support.

PART IV THE NORTHERN IRELAND ASSEMBLY

Elections etc

Dates of elections and dissolutions.

31.-(1) Subject to subsection (2), the date of the poll for the election of each Assembly shall be the first Thursday in May in the fourth calendar year following that in which its predecessor was elected; and the predecessor shall be dissolved at the beginning of the minimum period which ends with that date.

(2) The date of the poll for the election of the Assembly next following the Assembly elected under section 2 of the Northern Ireland (Elections) Act 1998 shall be 1st May 2003; and the Assembly elected under that section shall be dissolved at the beginning of the minimum period which ends with that date.

(3) The Secretary of State may at any time by order direct that the date of the poll for the election of the next Assembly shall, instead of being that specified in subsection (1) or (2), be a date specified in the order being a date falling not more than two months before or after the date specified in that subsection.

(4) An Assembly elected under this section or section 32 shall meet within the period of eight days beginning with the day of the poll at which it is elected.

(5) For the purposes of subsection (4), a Saturday, a Sunday, Christmas Day, Good Friday and any day which is a bank holiday in Northern Ireland shall be disregarded.

(6) In this section "minimum period" means a period determined in accordance with an order of the Secretary of State.

Extraordinary elections.

32. (1) If the Assembly passes a resolution that it should be dissolved the Secretary of State shall propose a date for the poll for the election of the next Assembly.

(2) A resolution under subsection (1) shall not be passed without the support of a number of members of the Assembly which equals or exceeds two thirds of the total number of seats in the Assembly.

(3) If the period mentioned in section 16(1) or (8) ends without a First Minister and a deputy First Minister having been elected, the Secretary of State shall propose a date for the poll for the election of the next Assembly.

- (4) If the Secretary of State proposes a date under subsection (1) or (3), Her Majesty may by Order in Council
- (a) direct that the date of the poll for the election of the next Assembly shall, instead of being determined in accordance with section 31, be the date proposed; and
 - (b) provide for the Assembly to be dissolved on a date specified in the Order.

Constituencies and numbers of members.

33. (1) The members of the Assembly shall be returned for the parliamentary constituencies in Northern Ireland.

(2) Each constituency shall return six members.

(3) An Order in Council under the Parliamentary Constituencies Act 1986 changing a parliamentary constituency in Northern Ireland shall have effect for the purposes of this Act in relation to

- (a) the first election under section 31 or 32 which takes place after the Order comes into force; and
- (b) later elections under that section and by-elections.

Elections and franchise.

34. (1) This section applies to elections of members of the Assembly, including by-elections.

(2) Each vote in the poll at an election shall be a single transferable vote.

(3) A single transferable vote is a vote-

- (a) capable of being given so as to indicate the voter's order of preference for the candidates for election as members for the constituency; and
- (b) capable of being transferred to the next choice when the vote is not needed to give a prior choice the necessary quota of votes or when a prior choice is eliminated from the list of candidates because of a deficiency in the number of votes given for him.

(4) The Secretary of State may by order make provision about elections or any matter relating to them.

(5) In particular, an order under subsection (4) may make-

- (a) provision as to the persons entitled to vote at an election and the registration of such persons;
- (b) provision for securing that no person stands as a candidate for more than one constituency at a general election;
- (c) provision for determining the date of the poll at a by-election;

(d) provision about deposits.

(6) An order under subsection (4) may apply (with or without modifications) any provision of or made under, any enactment.

Vacancies.

35.-(1) The Secretary of State may by order make provision for the filling of vacancies occurring in the Assembly's membership.

(2) Such provision may be made by reference to by-elections or substitutes or such other method of filling vacancies as the Secretary of State thinks fit.

(3) If a seat becomes vacant, the Presiding Officer shall as soon as reasonably practicable inform the Chief Electoral Officer for Northern Ireland.

(4) The validity of any proceedings of the Assembly is not affected by any vacancy in its membership.

(5) An order under subsection (1) may apply (with or without modifications) any provision of or made under, any enactment.

PART V NSMC, BIC, BIIC ETC.

North-South Ministerial Council and British-Irish Council.

52.-(1) The First Minister and the deputy First Minister acting jointly shall make such nominations of Ministers and junior Ministers (including where appropriate alternative nominations) as they consider necessary to ensure-

(a) such cross-community participation in the North-South Ministerial Council as is required by the Belfast Agreement; and

(b) such cross-community participation in the British-Irish Council as is so required.

(2) It shall be a Ministerial responsibility of a Minister or junior Minister nominated under subsection (1)(a) or (b) to participate in the Council concerned in such meetings or activities as are specified in the nomination.

(3) Without prejudice to the operation of section 24, such a Minister or junior Minister shall act in accordance with any decisions of the Assembly or the Executive Committee which are relevant to his participation in the Council concerned.

(4) A Minister may in writing authorise a Minister or junior Minister who has been nominated under subsection (1)(a) or (b) to enter into agreements or arrangements in respect of matters for which he is responsible.

(5) The First Minister and the deputy First Minister acting jointly shall, as far in advance of each meeting of either Council as is reasonably practicable, give to the Executive Committee and to the Assembly the following information in relation to the meeting

(a) the date;

(b) the agenda; and

(c) nominations made under subsection (1) for the purposes of the meeting.

(6) A Minister or junior Minister who participates in a meeting of either Council by reason of a nomination under this section shall, as soon as reasonably practicable after the meeting, make a report

(a) to the Executive Committee; and

(b) to the Assembly.

(7) A report under subsection (6)(b) shall be made orally unless standing orders authorise it to be made in writing.

(8) The Northern Ireland contributions towards the expenses of the Councils shall be defrayed as expenses of the Department of Finance and Personnel.

(9) In 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;

(b) in relation to the British-Irish Council, in accordance with the first paragraph 5 of Strand Three of that Agreement.

Agreements etc. by persons participating in Councils.

53. (1) This section applies to any agreement or arrangement entered into by a Minister or junior Minister participating, by reason of a nomination under section 52, in a meeting of the North-South Ministerial Council or the British-Irish Council.

(2) Provision may be made by Act of the Assembly for giving effect to any agreement or arrangement to which this section applies, including provision

(a) for transferring to any body designated by or constituted under the agreement or arrangement any functions which would otherwise be exercisable by any Minister or Northern Ireland department;

(b) for transferring to a Minister or Northern Ireland department any functions which would otherwise be exercisable by any authority outside Northern Ireland.

(3) Subsection (2) has effect notwithstanding anything in subsection (2)(a) of section 6; but it does not affect

(a) the operation of subsection (2)(b) to (f) of that section; or

(b) the operation of section 8 or 15 in relation to the enactment of any Act of the Assembly.

(4) No agreement or arrangement to which this section applies entered into for the establishment after the appointed day of an implementation body shall come into operation without the approval of the Assembly.

(5) In subsection (4) "implementation body" means a body for implementing, on the basis mentioned in paragraph 11 of Strand Two of the Belfast Agreement, policies agreed in the North-South Ministerial Council.

British-Irish Intergovernmental Conference.

54.-(1) This section applies where excepted or reserved matters relating to Northern Ireland are to be discussed at a meeting of the British-Irish Intergovernmental Conference.

(2) The First Minister and the deputy First Minister acting jointly shall ensure that there is such cross-community attendance by Ministers and junior Ministers at the meeting as is required by the Belfast Agreement.

Implementation bodies.

55. (1) The Secretary of State may make an order about any body

- (a) which he considers to be an implementation body; and
- (b) which is, or is to be, established on or before the appointed day.

(2) An order under this section may make any such provision as may be made (after the appointed day) by Act of the Assembly and may in particular

- (a) confer on the body the legal capacities of a body corporate;
- (b) confer on the body any function which the Secretary of State considers necessary or expedient for the purpose for which it is, or is to be, established;
- (c) confer on a Northern Ireland department power to make grants to the body out of money appropriated by Act of the Assembly;
- (d) make provision as to the accounting and audit arrangements which are to apply in relation to the body; and
- (e) make consequential or supplementary provisions, including provisions amending or repealing any Northern Ireland legislation, or any instrument made under such legislation.

(3) In this section "implementation body" means a body for implementing, on the basis mentioned in paragraph 11 of Strand Two of the Belfast Agreement, policies agreed in the North-South Ministerial Council.

Civic Forum.

56.-(1) The First Minister and the deputy First Minister acting jointly shall make arrangements for obtaining from the Forum its views on social, economic and cultural matters.

(2) The arrangements so made shall not take effect until after they have been approved by the Assembly.

(3) The expenses of the Forum shall be defrayed as expenses of the Department of Finance and Personnel.

(4) In this section "the Forum" means the consultative Civic Forum established in pursuance of paragraph 34 of Strand One of the Belfast Agreement by the First Minister and the deputy First Minister acting jointly.

PART VII

HUMAN RIGHTS AND EQUAL OPPORTUNITIES

Human rights

The Northern Ireland Human Rights Commission.

68.-(1) There shall be a body corporate to be known as the Northern Ireland Human Rights Commission.

(2) The Commission shall consist of a Chief Commissioner and other Commissioners appointed by the Secretary of State.

(3) In making appointments under this section, the Secretary of State shall as far as practicable secure that the Commissioners, as a group, are representative of the community in Northern Ireland.

(4) Schedule 7 (which makes supplementary provision about the Commission) shall have effect.

The Commission's functions.

69. (1) The Commission shall keep under review the adequacy and effectiveness in Northern Ireland of law and practice relating to the protection of human rights.

(2) The Commission shall, before the end of the period of two years beginning with the commencement of this section, make to the Secretary of State such recommendations as it thinks fit for improving

- (a) its effectiveness;
- (b) the adequacy and effectiveness of the functions conferred on it by this Part; and
- (c) the adequacy and effectiveness of the provisions of this Part relating to it.

(3) The Commission shall advise the Secretary of State and the Executive Committee of the Assembly of legislative and other measures which ought to be taken to protect human rights

- (a) as soon as reasonably practicable after receipt of a general or specific request for advice; and
- (b) on such other occasions as the Commission thinks appropriate.

(4) The Commission shall advise the Assembly whether a Bill is compatible with human rights-

- (a) as soon as reasonably practicable after receipt of a request for advice; and
- (b) on such other occasions as the Commission thinks appropriate.

(5) The Commission may

- (a) give assistance to individuals in accordance with section 70; and
- (b) bring proceedings involving law or practice relating to the protection of human rights.

(6) The Commission shall promote understanding and awareness of the importance of human rights in Northern Ireland; and for this purpose it may undertake, commission or provide financial or other assistance for

- (a) research; and
- (b) educational activities.

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Standing Advisory Commission on Human Rights: dissolution.

72. (1) The Standing Advisory Commission on Human Rights is hereby dissolved.

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Equality of opportunity

The Equality Commission for Northern Ireland.

73.-(1) There shall be a body corporate to be known as the Equality Commission for Northern Ireland.

(2) The Commission shall consist of not less than 14 nor more than 20 Commissioners appointed by the Secretary of State.

(3) The Secretary of State shall appoint-

(a) one Commissioner as Chief Commissioner; and

(b) at least one Commissioner as Deputy Chief Commissioner

SCHEDULE 1

Section 1(1).

POLLS FOR THE PURPOSES OF SECTION 1

1. The Secretary of State may by order direct the holding of a poll for the purposes of section 1 on a date specified in the order.

2. Subject to paragraph 3, the Secretary of State shall exercise the power under paragraph 1 if at any time it appears likely to him that a majority of those voting would express a wish that Northern Ireland should cease to be part of the United Kingdom and form part of a united Ireland.

3. The Secretary of State shall not make an order under paragraph 1 earlier than seven years after the holding of a previous poll under this Schedule.

4. (1) An order under this Schedule directing the holding of a poll shall specify
(a) the persons entitled to vote; and
(b) the question or questions to be asked.

(2) An order

(a) may include any other provision about the poll which the Secretary of State thinks expedient (including the creation of criminal offences); and

(b) may apply (with or without modification) any provision of, or made under, any enactment.

SCHEDULE 2

Section 4(1).

EXCEPTED MATTERS

1. The Crown, including the succession to the Crown and a regency, but not

(a) functions of the First Minister and deputy First Minister, the Northern Ireland Ministers or the Northern Ireland departments, or functions in relation to Northern Ireland of any Minister of the Crown;

- (b) property belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes of a government department (other than property used for the purposes of the armed forces of the Crown or the Ministry of Defence Police);
- (c) the foreshore or the sea bed or subsoil or their natural resources so far as vested in Her Majesty in right of the Crown.

2. The Parliament of the United Kingdom; parliamentary elections, including the franchise; disqualifications for membership of that Parliament.

3. International relations, including relations with territories outside the United Kingdom, the European Communities (and their institutions) and other international organisations, and international development assistance and cooperation, but not

- (a) the surrender of fugitive offenders between Northern Ireland and the Republic of Ireland;
- (b) the exercise of legislative powers so far as required for giving effect to any agreement or arrangement entered in to-

- (i) by a Minister or junior Minister participating, by reason of a nomination under section 52, in a meeting of the North-South Ministerial Council or the British-Irish Council; or

- (ii) by, or in relation to the activities of, any body established for implementing, on the basis mentioned in paragraph 11 of Strand Two of the Belfast Agreement, policies agreed in the North-South Ministerial Council;

- (c) observing and implementing international obligations, obligations under the Human Rights Convention and obligations under Community law

In this paragraph "the Human Rights Convention" means the following as they have effect for the time being in relation to the United Kingdom

- (a) the Convention for the Protection of Human Rights and Fundamental Freedoms, agreed by the Council of Europe at Rome on 4th November 1950; and
- (b) any Protocols to that Convention which have been ratified by the United Kingdom.

4. The defence of the realm; trading with the enemy; the armed forces of the Crown but not any matter within paragraph 10 of Schedule 3; war pensions; the Ministry of Defence Police.

5. Control of nuclear, biological and chemical weapons and other weapons of mass destruction.

6. Dignities and titles of honour.

7. Treason but not powers of arrest or criminal procedure.

8. Nationality; immigration, including asylum and the status and capacity of persons in the United Kingdom who are not British citizens; free movement of persons within the European Economic Area; issue of travel documents.

9. The following matters-

- (a) taxes or duties under any law applying to the United Kingdom as a whole;
- (b) stamp duty levied in Northern Ireland before the appointed day; and
- (c) taxes or duties substantially of the same character as those mentioned in sub-paragraph (a) or (b).

10. The following matters-

- (a) national insurance contributions;
- (b) the control and management of the Northern Ireland National Insurance Fund and payments into and out of that Fund;
- (c) reductions in and deductions from national insurance contributions;
- (d) national insurance rebates;
- (e) payments out of public money to money purchase pension schemes;
- (f) contributions equivalent premiums;
- (g) rights to return to the state pension scheme.

Sub-paragraph (a) includes the determination, payment, collection and return of national insurance contributions and matters incidental to those matters.

Sub-paragraph (b) does not include payments out of the Northern Ireland National Insurance Fund which relate to

- (i) the benefits mentioned in section 143(1) of the Social Security Administration (Northern Ireland) Act 1992, or benefits substantially of the same character as those benefits; or
- (ii) administrative expenses incurred in connection with matters not falling within sub-paragraphs (a) to (g).

Sub-paragraphs (b) and (e) do not include payments out of or into the Northern Ireland National Insurance Fund under

- (i) section 172(1)(b), (2)(a) or (7)(c) of the Pension Schemes (Northern Ireland) Act 1993; or
- (ii) Article 202, 227, 234 or 252 of the Employment Rights (Northern Ireland) Order 1996.

In this paragraph "contributions equivalent premium" has the meaning given by section 51(2) of the Pension Schemes (Northern Ireland) Act 1993.

11. The appointment and removal of judges of the Supreme Court of Judicature of Northern Ireland, holders of offices listed in column 1 of Schedule 3 to the Judicature (Northern Ireland) Act 1978, county court judges, recorders, resident magistrates, justices of the peace, members of juvenile court panels, coroners, the Chief and other Social Security Commissioners for Northern Ireland, the Chief and other Child Support Commissioners for Northern Ireland and the President and other members of the Lands Tribunal for Northern Ireland.

12. Elections, including the franchise, in respect of the Northern Ireland Assembly, the European Parliament and district councils.

13. The registration of political parties.

14. Coinage, legal tender and bank notes.

15. The National Savings Bank.

16. The subject-matter of the Protection of Trading Interests Act 1980.

17. National security (including the Security Service, the Secret Intelligence Service and the Government Communications Headquarters); special powers and other provisions for dealing with terrorism or subversion; the subjectmatter of

- (a) the Official Secrets Acts 1911 and 1920;
- (b) the Interception of Communications Act 1985, except so far as relating to the prevention or detection of serious crime (within the meaning of that Act); and
- (c) the Official Secrets Act 1989, except so far as relating to any information, document or other article protected against disclosure by section 4(2) (crime) and not by any other provision of sections 1 to 4.

18. Nuclear energy and nuclear installations, including nuclear safety, security and safeguards, and liability for nuclear occurrences, but not the subjectmatter of-

(a) section 3(5) to (7) of the Environmental Protection Act 1990 (emission limits); or

(b) the Radioactive Substances Act 1993.

19. Regulation of sea fishing outside the Northern Ireland zone (except in relation to Northern Ireland fishing boats).

In this paragraph "Northern Ireland fishing boat" means a fishing vessel which is registered in the register maintained under section 8 of the Merchant Shipping Act 1995 and whose entry in the register specifies a port in Northern Ireland as the port to which the vessel is to be treated as belonging.

20. Regulation of activities in outer space.

21. Any matter with which a provision of the Northern Ireland Constitution Act 1973 solely or mainly deals.

22. Any matter with which a provision of this Act falling within the following subparagraphs solely or mainly deals

- (a) Parts I and II;
- (b) Part III except sections 19, 20, 22, 23(2) to (4) and 28;
- (c) Part IV except sections 40, 43, 44(8) and 50 and Schedule 5;
- (d) in Part V, sections 52 and 54;
- (e) Part VI except sections 57(1) and 67;
- (f) Part VII except sections 73, 74(1) to (4), 75 and 77 and Schedules 8 and 9;
- (g) in Part VIII, sections 79 to 83 and Schedule 10.

This paragraph does not apply to

- (i) any matter in respect of which it is stated by this Act that provision may be made by Act of the Assembly;
- (ii) any matter to which a description specified in this Schedule or Schedule 3 is stated not to apply; or
- (iii) any matter falling within a description specified in Schedule 3.

SCHEDULE 3

RESERVED MATTERS

1. The conferral of functions in relation to Northern Ireland on any Minister of the Crown.

2. Property belonging to Her Majesty in right of the Crown or belonging to a department of the Government of the United Kingdom or held in trust for Her Majesty for the purposes of such a department (other than property used for the purposes of the armed forces of the Crown or the Ministry of Defence Police).

3. Navigation, including merchant shipping, but not harbours or inland waters.

4. Civil aviation but not aerodromes.

5. The foreshore and the sea bed and subsoil and their natural resources (except so far as affecting harbours); submarine pipe-lines; submarine cables, including any land line used solely for the purpose of connecting one submarine cable with another.

6. Domicile.

7. The Post Office, posts (including postage stamps, postal orders and postal packets) and the regulation of postal services.

8. Disqualification for membership of the Assembly; privileges, powers and immunities of the Assembly, its members and committees greater than those conferred by section 50.

9. The following matters

(a) the criminal law;

(b) the creation of offences and penalties;

(c) the prevention and detection of crime and powers of arrest and detention in connection with crime or criminal proceedings;

(d) prosecutions;

(e) the treatment of offenders (including children and young persons, and mental health patients, involved in crime);

(f) the surrender of fugitive offenders between Northern Ireland and the Republic of Ireland;

(g) compensation out of public funds for victims of crime.

Sub-paragraphs (a) to (c) do not include any matter within paragraph 17 of Schedule 2.

Sub-paragraph (e) includes, in particular, prisons and other institutions for the treatment or detention of persons mentioned in that sub-paragraph.

10. The maintenance of public order, including the conferring of powers, authorities, privileges or immunities for that purpose on constables, members of the armed forces of the Crown and other persons (other than the Ministry of Defence Police), but not any matter within paragraph 17 of Schedule 2; the Parades Commission for Northern Ireland.

11. The establishment, organisation and control of the Royal Ulster Constabulary and of any other police force (other than the Ministry of Defence Police); the Police Authority for Northern Ireland; traffic wardens.

12. Firearms and explosives.

13. Civil defence.

14. The subject-matter of the Emergency Powers Act (Northern Ireland) 1926.

15. All matters, other than those specified in paragraph 11 of Schedule 2, relating to the Supreme Court of Judicature of Northern Ireland, county courts, courts of summary jurisdiction (including magistrates' courts and juvenile courts) and coroners, including procedure, evidence, appeals, juries, costs, legal aid and the registration, execution and enforcement of judgments and orders but not

- (a) bankruptcy, insolvency, the winding up of corporate and unincorporated bodies or the making of arrangements or compositions with creditors;
- (b) the regulation of the profession of solicitors.

16. The functions and procedures of the Civil Service Commissioners for Northern Ireland.

17. All matters (including procedure and appeals) relating to

(a) the Chief and other Social Security Commissioners for Northern Ireland; or

(b) the Chief and other Child Support Commissioners for Northern Ireland,

but not any matter within paragraph 11 of Schedule 2.

18. The subject-matter of sections 149 to 151 of and Schedules 5 and SA to the Social Security Administration (Northern Ireland) Act 1992 (Social Security Advisory Committee and Industrial Injuries Advisory Council).

19. The subject-matter of the Vaccine Damage Payment Scheme.

20. Import and export controls and trade with any place outside the United Kingdom but not

(a) the furtherance of the trade of Northern Ireland or the protection of traders in Northern Ireland against fraud;

(b) services in connection with, or the regulation of, the quality, insurance, transport, marketing or identification of agricultural or food products, including livestock;

(c) the prevention of disease or the control of weeds and pests;

(d) aerodromes and harbours;

(e) any matter within paragraph 4 of Schedule 2.

21. The subject-matter of the National Minimum Wage Act 1998.

22. The subject-matter of the following provisions of the Pension Schemes Act 1993

(a) section 6(1), (2)(a)(i), (iii) and (iv) and (b), (3), (4) and (8) (registration of occupational and personal pension schemes);

(b) section 145 (Pensions Ombudsman).

23. The following matters

(a) financial services, including investment business, banking and deposit-taking, collective investment schemes and insurance;

(b) financial markets, including listing and public offers of securities and investments, transfer of securities and insider dealing.

This paragraph does not include the subject-matter of

(a) the Industrial and Provident Societies Act (Northern Ireland) 1969;

(b) the Credit Unions (Northern Ireland) Order 1985;

(c) the Companies (Northern Ireland) Order 1986;

(d) the Insolvency (Northern Ireland) Order 1989;

(e) the Companies (Northern Ireland) Order 1990;

(f) the Companies (No.2) (Northern Ireland) Order 1990;

(g) the Open-Ended Investment Companies (Investment Companies with Variable Capital) Regulations (Northern Ireland) 1997.

24. The subject-matter of

(a) the Building Societies Act 1986;

(b) the Friendly Societies Act 1992.

25. The subject-matter of the Money Laundering Regulations 1993, but in relation to any type of business.

26. Regulation of anti-competitive practices and agreements; abuse of dominant position; monopolies and mergers.

27. Intellectual property but not the subject-matter of Parts I and II of the Plant Varieties Act 1997 (plant varieties and the Plant Varieties and Seeds Tribunal).

28. Units of measurement and United Kingdom primary standards.

29. Telecommunications; wireless telegraphy; the provision of programme services (within the meaning of the Broadcasting Act 1990); internet services; electronic encryption; the subject matter of Part II of the Wireless Telegraphy Act 1949 (electromagnetic disturbance).

30. The National Lottery (except in so far as any matter within Schedule 2 is concerned).

31. Xenotransplantation.

32. Surrogacy arrangements, within the meaning of the Surrogacy Arrangements Act 1985, including the subject-matter of that Act.

33. The subject-matter of the Human Fertilisation and Embryology Act 1990. 1990 c.37.

34. Human genetics.

35. Research Councils within the meaning of the Science and Technology Act 1965.

36. Areas in which industry may qualify for assistance under Part III of the Industrial Development Act 1982.

37. Consumer safety in relation to goods.

38. Technical standards and requirements in relation to products in pursuance of an obligation under Community law but not standards and requirements in relation to food, agricultural or horticultural produce, fish or fish products, seeds, animal feeding stuffs, fertilisers or pesticides.

39. The subject-matter of section 3(5) to (7) of the Environmental Protection Act 1990 (emission limits); the environmental protection technology scheme for research and development in the United Kingdom.

40. The subject-matter of-

(a) the Data Protection Act 1984;

(b) the Data Protection Act 1998; and

(c) Council Directive 95/46/EC (protection of individuals with regard to the processing of personal data and free movement of such data).

41. Oaths and declarations (including all undertakings and affirmations, by whatever name) other than those within section 77(3).

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