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Current

# Northern Ireland Bill

6th July 98

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# BILL

TO

Make new provision for the government of Northern Ireland for A.D. 1998  
the purpose of implementing the agreement reached at  
multi-party talks on Northern Ireland set out in Command  
Paper 3883.

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 I

### PRELIMINARY

1.—(1) It is hereby declared that Northern Ireland is its entire  
means 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 His  
Majesty's Government in the United Kingdom and the Government of  
Ireland.

2. The Government of Ireland Act 1920 (the 1920 Act) is repealed,  
and that Act shall have effect notwithstanding any other previous  
enactment.

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").

*transfer of power*

A

# B I L L

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. A.D. 1998.

**B**E 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 I

### PRELIMINARY

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. Status of Northern Ireland. [j1] ✓

(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. ✓

2. The Government of Ireland Act 1920 ("the 1920 Act") is repealed; and this Act shall have effect notwithstanding any other previous enactment. Previous enactments. [j2] 1920 c. 67. ✓

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"). Devolution order. [j3] ✓

*transfer of powers*

(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.  
[j4]

4.—(1) In this Act—

- “excepted matters” means the matters specified in Schedule 2;
- “reserved matters” means the matters specified in Schedule 3;
- “transferred matters” means matters which are not excepted matters or reserved matters.

(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 commencement of Part II 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

5 5.—(1) Subject to sections 6 and 7, the Assembly may make laws, to be known as Measures.

Measures of the  
Northern Ireland  
Assembly. [j5]

(2) A proposed Measure shall become a Measure when it has been passed by the Assembly and has received Royal Assent.

10 (3) A proposed Measure 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 Measure by the Presiding Officer, and shall form part of the Measure.

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

? why?

(6) This section does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland.

20 6.—(1) A provision of a Measure is not law if it is outside the legislative competence of the Assembly.

Legislative  
competence. [j8]

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

25 (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 relates to an excepted matter and is not ancillary to other provisions (whether in the Measure or previously enacted) which relate to reserved matters or transferred matters;

(c) it modifies an enactment in breach of Schedule 4;

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

(e) it is incompatible with any of the Convention rights or with Community law.

II 6 (2)(d)

I women?  
hierarchy of rights

35 (3) Any provision of a Measure of the Assembly is to be read, so far as possible, so as to be within the legislative competence of the Assembly and is to have effect accordingly.

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

40 (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;

45 and references in this Act to provisions previously enacted are references to provisions contained in, or in any instrument made under, another Measure or other Northern Ireland legislation.

Consent of  
Secretary of State  
required in  
certain cases. [j6]

7. The consent of the Secretary of State shall be required in accordance with this section in relation to a proposed Measure which contains—

- (a) a provision which relates to an excepted matter and is ancillary to other provisions (whether in the Measure or previously enacted) which relate to reserved or transferred matters; or 5
- (b) a provision which relates to a reserved matter.

#### *Scrutiny and stages of proposed Measures*

Scrutiny by  
Ministers. [j9]

8.—(1) A Northern Ireland Minister in charge of a proposed Measure shall, on or before introduction of it in the Assembly, make a statement to the effect that in his view the Measure would be within the legislative competence of the Assembly. 10

(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.  
[j10]

9.—(1) Subject to subsection (2), standing orders shall ensure that a proposed Measure is not introduced in the Assembly if the Presiding Officer decides that any provision of it would be outside the legislative competence of the Assembly. 15

(2) Standing orders may provide for the Assembly, by a resolution with cross-community support, to overrule any decision of the Presiding Officer of the kind mentioned in subsection (1). 20

(3) Subject to subsection (4), standing orders shall provide that—

- (a) the Presiding Officer shall consider a proposed Measure both on its introduction and before the Assembly enters on its final stage; 25

(b) if he considers that the proposed Measure contains—

- (i) any provision which relates to an excepted matter and is ancillary to other provisions (whether in the Measure or previously enacted) which relate to reserved matters or transferred matters; or 30

(ii) any provision which relates to a reserved matter, he shall refer it to the Secretary of State; and

- (c) the Assembly shall not proceed with the proposed Measure or, as the case may be, enter on its final stage unless—

(i) the Secretary of State's consent to the consideration of the proposed Measure by the Assembly is signified; or 35

(ii) the Assembly is informed that in <sup>its</sup> ~~his~~ opinion the proposed Measure does not contain any such provision as is mentioned in sub-paragraph (i) or (ii) of paragraph (b).

(4) Standing orders shall provide that any provision made by virtue of subsection (3)(b) and (c) shall not apply— 40

- (a) where, in the opinion of the Presiding Officer, each provision of the proposed Measure which relates to an excepted or reserved matter is ancillary to other provisions (whether in the Measure or previously enacted) dealing with transferred matters only; or 45

- (b) on the introduction of a proposed Measure, where the Measure has been endorsed with a statement that the Secretary of State has consented to the Assembly considering the proposed Measure.

5 (5) In this section and section 13 "final stage", in relation to a proposed Measure, means the stage in the Assembly's proceedings at which the proposed Measure falls finally to be passed or rejected.

10 10.—(1) The Attorney General for Northern Ireland may refer the question of whether a provision of a proposed Measure would be within the legislative competence of the Assembly to the Judicial Committee for decision. Scrutiny by the Judicial Committee. [j11]

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

- 15 (a) the period of four weeks beginning with the passing of the proposed Measure; and  
 (b) any period of four weeks beginning with any subsequent approval of the proposed Measure in accordance with standing orders made by virtue of section 11(4).

20 (3) He shall not make a reference in relation to a provision of a proposed Measure if he has notified the Presiding Officer that he does not intend to make a reference in relation to the provision, unless the proposed Measure has been approved as mentioned in subsection (2)(b) since the notification.

11.—(1) Standing orders shall include provision—

- 25 (a) for general debate on a proposed Measure with an opportunity for members to vote on its general principles;  
 (b) for the consideration of, and an opportunity for members to vote on, the details of a proposed Measure; and  
 30 (c) for a final stage at which a proposed Measure can be passed or rejected.

Stages of proposed Measures. [j13] ✓

(2) Standing orders ~~may~~ <sup>shall</sup> include provision for the consideration of the details of a proposed Measure by such a committee as is mentioned in paragraph 11 of Strand One of the Belfast Agreement.

Ass. may take it up

35 (3) Standing orders may, in relation to different types of proposed Measure, modify provisions made in pursuance of subsection (1) or (2).

(4) Standing orders shall provide for an opportunity for the reconsideration of a proposed Measure after its passing if (and only if)—

- 40 (a) the Judicial Committee decide that any provision of the proposed Measure would not be within the legislative competence of the Assembly;  
 (b) a decision is made in relation to the proposed Measure under section 13; or  
 45 (c) a motion under section 14(1) is passed by either House of Parliament praying that the proposed Measure shall not be submitted for Royal Assent.

(5) Standing orders shall, in particular, ensure that any proposed Measure amended on reconsideration is subject to a final stage at which it can be approved or rejected.

(6) References in subsection (4) and section 5(2) to the passing of a proposed Measure shall, in the case of a proposed Measure which has been amended on reconsideration, be read as references to the approval of the proposed Measure.

#### *Royal Assent*

Submission by  
Secretary of  
State. [j10A]

12.—(1) It shall be the Secretary of State who submits proposed Measures for Royal Assent. 10

(2) The Secretary of State shall not submit a proposed Measure for Royal Assent at any time when—

- (a) the Attorney General for Northern Ireland is entitled to make a reference in relation to a provision of the proposed Measure under section 10; 15
- (b) any such reference has been made but has not been decided or otherwise disposed of by the Judicial Committee; or
- (c) a decision may be made in relation to the proposed Measure under section 13.

(3) If the Judicial Committee have decided that any provision of a proposed Measure would be outside the legislative competence of the Assembly, the Secretary of State shall not submit the proposed Measure in its unamended form for Royal Assent. 20

Power to decide  
not to submit in  
certain cases.  
[j12]

13.—(1) If—

- (a) a proposed Measure contains a provision— 25
  - (i) which the Secretary of State considers relates to an excepted matter and is ancillary to other provisions (whether in the Measure or previously enacted) which relate to reserved or transferred matters; or
  - (ii) which the Secretary of State considers relates to a reserved matter; and 30

(b) it has not been referred to him under subsection (3) of section 9 (whether by virtue of subsection (4)(a) of that section or otherwise) before the Assembly enters on its final stage, he may, unless he consents to it, decide not to submit the proposed Measure for Royal Assent. 35

(2) If a proposed Measure contains provisions which the Secretary of State has reasonable grounds to believe would be incompatible with any international obligations, he may decide not to submit the proposed Measure for Royal Assent. 40

(3) A decision under this section may be made at any time during—

- (a) the period of four weeks beginning with the passing of the proposed Measure; and
- (b) any period of four weeks beginning with any subsequent approval of the proposed Measure in accordance with standing orders made by virtue of section 11(4). 45

14.—(1) Subject to subsection (2), a proposed Measure to which the Secretary of State has consented under this Part shall not be submitted by him for Royal Assent unless he has first laid it before Parliament and either—

Parliamentary  
control where  
consent given.  
[j7]

- 5 (a) the period of 20 days beginning with the date of which it is laid  
has expired without notice having been given in either House of a  
motion praying that the proposed Measure shall not be  
submitted for Royal Assent; or
- 10 (b) if notice of such a motion is given within that period, the motion  
has been rejected or withdrawn.

(2) Subsection (1) shall not apply to a proposed Measure if the Secretary of State considers that it contains no provision dealing with an excepted or reserved matter except a provision which is ancillary to other provisions dealing with transferred matters only.

- 15 (3) Subsection (1) shall not apply to a proposed Measure if the Secretary of State considers that by reason of urgency it should be submitted for Royal Assent without first being laid before Parliament.

(4) Any Measure submitted by virtue of subsection (3) shall, if given Royal Assent, be laid before Parliament by the Secretary of State after  
20 Royal Assent, and if—

- (a) within the period of 20 days beginning with date on which it is laid notice is given in either House of a motion praying that the Measure shall cease to have effect; and
- (b) that motion is carried,
- 25 Her Majesty may by Order in Council repeal that Measure with effect from such date as may be specified in the Order.

(5) An Order in Council under subsection (4) may make such consequential or transitional provision in connection with the repeal as appears to Her Majesty to be necessary or expedient.

- 30 (6) Any notice of motion for the purposes of subsection (1) or (4) must be signed by not less than 20 members of the House in which it is given; and the period mentioned in that subsection shall be computed, in relation to each House, by reference only to days on which that House sits.

### PART III

#### EXECUTIVE AUTHORITIES

35

*First Minister and deputy First Minister.*

15.—(1) The Assembly shall elect from among its members the First Minister and the deputy First Minister.

Election by  
members of  
Assembly. [j15]

- (2) Each candidate for either office must stand for election jointly with a  
40 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.

Joint tenure of  
office. [j15A]

16.—(1) The First Minister and the deputy First Minister shall not take up office until each of them has affirmed the terms of the pledge of office.

(2) 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.

(3) If either the First Minister or the deputy First Minister ceases to hold office, whether by resignation or otherwise, the other shall also cease to hold office.

(4) Where the offices of the First Minister and the deputy First Minister are vacant, an election shall be held under section 15 to fill the vacancies.

(5) In this Act “the pledge of office” means the pledge of office set out in Annex A to Strand One of the Belfast Agreement (the text of which Annex is reproduced in Schedule 5).

#### Northern Ireland Ministers

Allocation of  
Ministerial  
offices. [j16]

17.—(1) Subject to subsection (2), the number of Northern Ireland Ministers and the nature of their offices shall be determined by the First Minister and the deputy First Minister acting jointly.

(2) The number of Northern Ireland Ministers shall not exceed 10 or 20 such greater number as the Secretary of State may by order provide.

(3) The nominating officer of the political party for which the formula in subsection (6) 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.

(4) If the power conferred by subsection (3) is not exercised within a period specified in standing orders, the power shall be exercisable instead by the nominating officer of the political party for which the formula in subsection (6) gives the next highest figure.

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

(6) The formula is—

$$\frac{S}{1 + M}$$

where—

S = the number of seats in the Assembly which are held by members of the party;

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

(7) 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.

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

(9) The power to make an order under subsection (2) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(10) In this section "nominating officer"—

(a) in relation to a registered political party, means the registered nominating officer;

(b) in relation to any other political party, means the leader of the party or an officer selected by him for the purposes of this section.

*meaningfully in current situation impact on NI*

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

Tenure of office.  
[j17]

(2) A Northern Ireland Minister—

(a) may at any time resign by notice in writing to the First Minister and the deputy First Minister; and

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

(3) Where a Ministerial office is vacant, the vacancy shall be filled by applying section 17(3) to (7).

(4) Where—

(a) the Assembly has resolved under section 19(2) that a political party no longer enjoys 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 section 17(3) to (7) as applied by subsection (3) above.

#### *Removal from office*

19.—(1) If the Assembly resolves that a Minister no longer enjoys the confidence of the Assembly—

Resolutions of no confidence.  
[j17A]

(a) because he is not committed to non-violence and exclusively peaceful and democratic means;

(b) because of any failure of his to observe any other terms of the pledge of office; or

(c) for any other reason,

he shall be excluded from holding office as a Minister for a period of twelve months beginning with the date of the resolution.

(2) If the Assembly resolves that a political party no longer enjoys the confidence of the Assembly—

(a) because it is not committed to non-violence and exclusively peaceful and democratic means; or

(b) for any other reason,

members of that party shall be excluded from holding office as Ministers for a period of twelve months beginning with the date of the resolution.

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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 subsection (1), (2) or (3) 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
- (b) a resolution under subsection (2)(a) in relation to a political party,

he may 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 party concerned—

- (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 committed 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.

1997 c.7.

(8) A resolution under this section shall not be passed without cross-community support.

(9) In this section "Minister" means the First Minister, the deputy First Minister or a Northern Ireland Minister.

Default powers of  
Secretary of  
State. [j19A]

20.—(1) This section applies where the Secretary of State, after consulting the political parties members of which hold seats in the Assembly, is of the opinion that—

- (a) the persons who are the First Minister, the deputy First Minister and the Northern Ireland Ministers; and
- (b) if they were to resign, the persons who would be likely to succeed them,

no longer enjoy or would not enjoy the confidence of the Assembly and, because of that, are not or would not be able to carry out their functions.

(2) The Secretary of State may by order direct that, for such period not exceeding 6 months as may be specified in the order, the functions of those Ministers—

- (a) shall cease to be exercisable by them; and
- (b) shall be exercisable instead by such members of the House of Commons as may be so specified.

(3) An order under this section may be revoked at any time before the end of the period specified in the order.

### *Executive functions*

21.—(1) The executive power in Northern Ireland shall continue to be vested in Her Majesty.

Exercise of executive functions. [j14]

(2) Such prerogative or other executive functions of Her Majesty in relation to Northern Ireland as may be delegated to a Minister or Northern Ireland department by Her Majesty shall, so far as they are exercisable within devolved competence, be exercisable by the Minister or department on Her Majesty's behalf.

(3) Statutory functions may be conferred on a Minister or Northern Ireland department by name; and any functions so conferred shall, so far as they are exercisable within devolved competence, be exercisable by the Minister or department on behalf of Her Majesty.

(4) Functions conferred on a Northern Ireland department by any pre-commencement enactment shall, so far as they are exercisable within devolved competence, continue to be exercisable by that department on behalf of Her Majesty.

(5) In this section—

“pre-commencement enactment” means—

(a) an Act passed before or in the same session as this Act and any other enactment made before the passing of this Act; and

(b) an enactment made, before the commencement of this section, under such an Act or such other enactment;

“statutory functions” means functions conferred by virtue of any enactment.

(6) In this section and sections 22 to 26, “Minister” means the First Minister or deputy First Minister elected under section 15, or a Northern Ireland Minister nominated under section 17.

(7) The Northern Ireland departments existing on the appointed day shall be the Northern Ireland departments for the purposes of this Act; but provision may be made by Measure for establishing new Northern Ireland departments or dissolving existing ones.

22.—(1) References in section 21 to the exercise of a function being within devolved competence are to be read in accordance with this section.

Devolved competence. [j14A]

(2) It is outside devolved competence—

- (a) to make any provision by subordinate legislation which would be outside the legislative competence of the Assembly if it were included in a Measure; or

means gov't can put through whatever between now & Ass.

(b) to confirm or approve any subordinate legislation containing such provision.

(3) In the case of any function other than a function of making, confirming or approving subordinate legislation, it is outside devolved competence to exercise the function (or exercise it in any way) so far as a provision of a Measure conferring the function (or, as the case may be, conferring it so as to be exercisable in that way) would be outside the legislative competence of the Assembly. 5

(4) Any provision of subordinate legislation made, confirmed or approved, or purporting to be made, confirmed or approved, by a Minister or Northern Ireland department is to be read, so far as possible, so as to be within the powers conferred by virtue of this Act and is to have effect accordingly. 10

Community law  
and Convention  
rights. [j14B]

1972 c.68.

23.—(1) Despite the provision made by section 21(4) in relation to observing and implementing obligations under Community law, any function of a Minister of the Crown in relation to any matter shall continue to be exercisable by him as regards Northern Ireland for the purposes specified in section 2(2) of the European Communities Act 1972. 15

(2) A Minister or Northern Ireland department has no power to make any subordinate legislation, or to do any other act, so far as the legislation or act is incompatible with any of the Convention rights or with Community law. 20

Power to prevent  
or require action.  
[j14C]

24.—(1) If the Secretary of State has reasonable grounds to believe that any action proposed to be taken by a Minister or Northern Ireland department would be incompatible with any international obligations, he may by order direct that the proposed action shall not be taken. 25

(2) If the Secretary of State has reasonable grounds to believe that any action capable of being taken by a Minister or Northern Ireland department is required for the purpose of giving effect to any such obligations, he may by order direct that the action shall be taken. 30

(3) In subsections (1) and (2), "action" includes making, confirming or approving subordinate legislation and, in subsection (2), includes introducing a proposed Measure in the Assembly.

(4) If any subordinate legislation made or which could be revoked by a Minister or Northern Ireland department contains— 35

(a) a provision which the Secretary of State has reasonable grounds to believe would be incompatible with any international obligations; or

(b) a provision relating to an excepted matter which would be within the legislative competence of the Assembly if it were included in a Measure, but which the Secretary of State has reasonable grounds to believe would have an adverse effect on the operation of an enactment as it applies to excepted matters, 40

the Secretary of State may by order made by statutory instrument revoke the legislation. 45

(5) The explanatory note to an order under subsection (4) shall state the reasons for revoking the legislation.

25.—(1) Arrangements may be made between any department of the Government of the United Kingdom and any Northern Ireland department for any functions of one of them to be discharged by, or by officers of, the other.

Agency  
arrangements  
between UK and  
NI departments.  
[j14D]

(2) No such arrangements shall affect the responsibility of the department on whose behalf any functions are discharged.

(3) In this section—

- 10 (a) references to a department of the Government of the United Kingdom include references to any Minister of the Crown; and  
(b) references to a Northern Ireland department include references to a Northern Ireland Minister.

15 (4) This section shall have effect in relation to the Post Office as it has effect in relation to a department of the Government of the United Kingdom.

26.—(1) A Minister or Northern Ireland department may—

- (a) consult on any matter with any authority in Ireland;  
20 (b) enter into agreements or arrangements with any such authority in respect of any transferred matter.

Consultation etc.  
with Ireland.  
[j14E]

(2) It is hereby declared that provision may be made by Measure for giving effect to any agreement or arrangement made under subsection (1), including provision—

- 25 (a) for transferring to any authority designated by or constituted under the agreement or arrangement any function which would otherwise be exercisable by any Minister or Northern Ireland department; or  
(b) for transferring to a Minister or Northern Ireland department any functions which would otherwise be exercisable by any  
30 authority elsewhere.

(3) Subsection (2) does not affect the operation of sections 6, 7 and 14 in relation to the enactment of any Measure.

#### Miscellaneous

27.—(1) There shall be an Executive Committee consisting of the First Minister, the deputy First Minister and the Northern Ireland Ministers.

The Executive  
Committee.  
[j18A]

(2) The First Minister and the deputy First Minister shall be chairmen of the Committee.

(3) The Committee shall have the functions set out in paragraphs 19 and 20 of Strand One of the Belfast Agreement.

28.—(1) Standing orders shall make provision—

- (a) for establishing committees of members of the Assembly ("consultative committees") to advise and assist each Northern

Consultative  
committees. [j19]

Ireland Minister in the formulation of policy with respect to matters within his responsibilities as a Minister; and

- (b) for enabling a committee to be so established either in relation to a single Northern Ireland Minister or in relation to more than one.

(2) Standing orders shall provide that—

- (a) the nominating officer of the political party for which the formula in subsection (3) gives the highest figure may select a consultative committee and nominate as its chairman or deputy chairman a person who is a member of the party and of the Assembly;
- (b) if the power conferred by paragraph (a) is not exercised within a period specified in standing orders, the power shall be exercisable instead by the nominating officer of the political party for which the formula in subsection (3) gives the next highest figure; and
- (c) paragraphs (a) and (b) shall be applied as many times as may be necessary to secure that a chairman and deputy chairman are nominated for each of the consultative committees.

(3) The formula is—

$$\frac{S}{1 + C}$$

where—

S = the number of seats in the Assembly which are held by members of the party;

C = the number of chairmen or deputy chairmen of consultative committees (if any) who are members of the party.

(4) Standing orders shall provide that, 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.

(5) Standing orders shall provide that, where an office of chairman or deputy chairman is vacant, the vacancy shall be filled by applying the provision made by virtue of subsections (2) to (4).

(6) Standing orders shall also make provision for securing that the balance of parties in the Assembly is, so far as practicable, reflected in the membership of the consultative committees taken as a whole.

(7) In this section "nominating officer" has the same meaning as in section 17.

#### PART IV

#### THE NORTHERN IRELAND ASSEMBLY

##### *Elections etc.*

Dates of elections  
and dissolutions.  
[27]

29.—(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 existing Assembly shall be 1st May 2003; and the existing Assembly shall be dissolved at the beginning of the minimum period which ends with that date.

5 (3) The Secretary of State may 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.

10 (4) If it appears to Her Majesty that—

(a) the composition of the Assembly is such that it no longer commands widespread acceptance throughout the community; and

(b) it is in the public interest that the Assembly should be dissolved,

15 Her Majesty, after taking into account any vote or resolution of the Assembly which appears to Her Majesty to be relevant, may by Order in Council direct that the date of the poll for the election of the next Assembly, instead of being determined in accordance with the foregoing provisions of this section, shall be such earlier date as may be specified in  
20 the Order.

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

(6) In this section—

25 “the existing Assembly” means the Assembly elected under section 2 of the Northern Ireland (Elections) Act 1998;

“minimum period” means a period determined in accordance with an order of the Secretary of State.

1998 c.12.

(7) The Secretary of State’s power to make an order under subsection  
30 (3) or (6) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

30.—(1) The members of the Assembly shall be returned for the Northern Ireland constituencies.

Constituencies and numbers of members. [j28]

35 (2) Each constituency shall return six members.

(3) In this section “the Northern Ireland constituencies”, in relation to the Assembly elected on any date, means the constituencies in Northern Ireland which would return (or would have returned) members to the Parliament of the United Kingdom if the poll at a general election were  
40 (or had been) held on that date.

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

Elections and franchise. [j29]

(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. 5

(4) The Secretary of State may by order made by statutory instrument make provision about elections or any matter relating to them. 10

(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; 15

(c) provision for determining the date of the poll at a by-election;

(d) provision about deposits.

(6) An order under subsection (4)—

(a) shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament; and 20

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

Vacancies. [j30]

32.—(1) The Secretary of State may by order made by statutory instrument make provision for the filling of vacancies occurring in the Assembly's membership. 25

(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. 30

(4) An order under subsection (1)—

(a) shall not be made unless a draft has been laid before, and approved by resolution of, each House of Parliament; and

(b) may apply (with or without modifications) any provision of, or made under, any enactment. 35

#### Disqualification

Disqualification.  
[j32]

1975 c.25.

1973 c.17.

33.—(1) The Northern Ireland Assembly Disqualification Act 1975 shall have effect as if any reference to the Assembly established under section 1 of the Northern Ireland Assembly Act 1973 were a reference to the Assembly. 40

(2) No recommendation shall be made to Her Majesty to make an Order in Council under section 3(1) of the Northern Ireland Assembly Disqualification Act 1975 (power to amend Schedule 1) without the consent of the Secretary of State. 45

(3) A person who is Her Majesty's Lord-Lieutenant or Lieutenant for a county or county borough in Northern Ireland is disqualified for membership of the Assembly for a constituency comprising the whole or part of the county or county borough.

5 (4) A person is disqualified for membership of the Assembly if he is disqualified from membership of the House of Commons otherwise than under the House of Commons Disqualification Act 1975.

1975 c.24.

(5) A person is not disqualified for membership of the Assembly by virtue of subsection (1) by reason only that he is a member of the Seanad Eireann (Senate of Ireland).

(6) A person is not disqualified for membership of the Assembly by virtue of subsection (4) by reason only that he is a peer (other than a Lord of Appeal in Ordinary).

15 (7) A person is not disqualified for membership of the Assembly by virtue of subsection (4) by reason only that he is disqualified under section 3 of the Act of Settlement (certain persons born out of the Kingdom) if he is a citizen of a Member State of the European Communities.

20 34.—(1) Subject to any order made by the Assembly under this section—

Effect of  
disqualification  
and provision for  
relief. [j32A]

(a) if any person disqualified by virtue of section 33 is returned as a member of the Assembly, his return shall be void; and

(b) if any person being a member of the Assembly becomes disqualified by virtue of that section, his seat shall be vacated.

25 (2) If, in a case which falls or is alleged to fall within subsection (1) otherwise than by virtue of section 33(4), it appears to the Assembly—

(a) that the grounds of disqualification or alleged disqualification which subsisted or arose at the material time have been removed; and

30 (b) that it is otherwise proper so to do,  
the Assembly may by order direct that any such disqualification incurred on those grounds at that time shall be disregarded for the purposes of this section.

(3) No order under subsection (2) shall affect the proceedings on any  
35 election petition or any determination of an election court.

35.—(1) Any person who claims that a person purporting to be a member of the Assembly—

Disqualification:  
judicial  
proceedings.  
[j33]

(a) is disqualified; or

(b) was disqualified when, or at any time since, he was returned,

40 may apply to the High Court of Justice in Northern Ireland for a declaration to that effect.

(2) On an application—

(a) the person in respect of whom the application is made shall be the respondent;

(b) the applicant shall give such security for costs, not exceeding £5,000, as the court may direct; and

(c) the decision of the court shall be final.

(3) A declaration made in accordance with this section shall be certified in writing to the Secretary of State by the court. 5

(4) No such declaration shall be made in respect of a person on any grounds if an order has been made by the Assembly under subsection (2) of section 34 directing that any disqualification incurred by him on those grounds shall be disregarded for the purposes of that section.

(5) No declaration shall be made in respect of any person on grounds 10 which subsisted when he was elected if an election petition is pending or has been tried in which his disqualification on those grounds is or was in issue.

(6) The Secretary of State may by order amend subsection (2) by substituting for the amount there specified such other amount as may be 15 specified in the order.

(7) The Secretary of State's power to make an order under subsection (6) shall be exercisable by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

#### *Presiding Officer and Commission*

20

Presiding Officer.  
[j20]

36.—(1) Each Assembly shall as its first business elect from among its members a Presiding Officer and deputies.

(2) A person elected Presiding Officer or deputy shall hold office until the conclusion of the next election for Presiding Officer under subsection (1) unless— 25

(a) he previously resigns;

(b) he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or

(c) he is removed from office by resolution of the Assembly.

(3) If the Presiding Officer or a deputy ceases to hold office before the 30 Assembly is dissolved, the Assembly shall elect another from among its members to fill his place.

(4) The Presiding Officer's functions may be exercised by a deputy if the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act. 35

(5) The Presiding Officer may (subject to standing orders) authorise any deputy to exercise functions on his behalf.

(6) Standing orders may include provision as to the participation (including voting) of the Presiding Officer and deputies in the proceedings of the Assembly. 40

(7) A person shall not be elected under subsection (1) or (3), or removed from office by resolution of the Assembly, without cross-community support.

Commission.  
[j21A]

37.—(1) There shall be a body corporate, to be known as the Northern Ireland Assembly Commission ("the Commission"), to perform— 45

MAC

- (a) the statutory functions conferred on the Commission; and
- (b) any functions conferred on the Commission by resolution of the Assembly.

(2) The members of the Commission shall be—

- 5 (a) the Presiding Officer; and
- (b) the prescribed number of members of the Assembly appointed in accordance with standing orders.

(3) In subsection (2) "the prescribed number" means 5 or such other number as may be prescribed by standing orders.

- 10 (4) The Commission shall provide the Assembly, or ensure that the Assembly is provided, with the property, staff and services required for the Assembly's purposes.

- (5) The Assembly may give special or general directions to the Commission for the purpose of or in connection with the exercise of the Commission's functions.

(6) Proceedings by or against the Assembly shall be instituted by or (as the case may be) against the Commission on behalf of the Assembly.

- (7) Any property or liabilities acquired or incurred in relation to matters within the general responsibility of the Commission to which (apart from this subsection) the Assembly would be entitled or subject shall be treated for all purposes as property or (as the case may be) liabilities of the Commission.

(8) Any expenses of the Commission shall be defrayed out of money appropriated by Measure.

- 25 (9) Any sums received by the Commission shall be paid into that Fund, subject to any provision made by Measure for the disposal of or accounting for such sums.

(10) Schedule 6 (which makes further provision about the Commission) shall have effect.

### 30 *Proceedings etc.*

38.—(1) The proceedings of the Assembly shall be regulated by standing orders. Standing orders. [j22]

(2) Standing orders shall not be made without cross-community support.

- 35 (3) Schedule 7 (which makes provision as to how certain matters are to be dealt with by standing orders) shall have effect.

39.—(1) If the prescribed number of members petition the Assembly expressing their concern about a matter which is to be voted on by the Assembly, the vote on that matter shall require cross-community support. Petitions of concern. [j22A]

- 40 (2) In subsection (1) "the prescribed number" means 30 or such other number as may be prescribed by standing orders.

(3) Standing orders shall make provision with respect to the procedure to be followed in petitioning the Assembly under this section, including provision with respect to the period of notice required.

Members' interests. [j25]

40.—(1) Standing orders shall include provision for a register of interests of members of the Assembly, and for—

- (a) registrable interests (as defined in the standing orders) to be registered in it; and
- (b) the register to be published and made available for public inspection. 5

(2) Standing orders shall include provision requiring that any member of the Assembly who has—

- (a) a financial interest (as defined in the standing orders) in any matter; or 10
- (b) any other interest, or an interest of any other kind, specified in the standing orders in any matter,

declares that interest before taking part in any proceedings of the Assembly relating to that matter.

(3) Standing orders made in pursuance of subsection (1) or (2) may include provision for preventing or restricting the participation in proceedings of the Assembly of a member with a registrable interest, or an interest mentioned in subsection (2), in a matter to which the proceedings relate.

(4) Standing orders shall include provision prohibiting a member of the Assembly from— 20

- (a) advocating or initiating any cause or matter on behalf of any person, by any means specified in the standing orders, in consideration of any payment or benefit in kind of a description so specified; or 25
- (b) urging, in consideration of any such payment or benefit in kind, any other member of the Assembly to advocate or initiate any cause or matter on behalf of any person by any such means.

(5) Standing orders may include provision—

- (a) for excluding from proceedings of the Assembly any member who fails to comply with, or contravenes, any provision made in pursuance of subsections (1) to (4); and 30
- (b) for withdrawing his rights and privileges as a member for the period of his exclusion.

(6) Any member of the Assembly who— 35

- (a) takes part in any proceedings of the Assembly without having complied with, or in contravention of, any provision made in pursuance of subsections (1) to (3); or
- (b) contravenes any provision made in pursuance of subsection (4), is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale. 40

(7) Proceedings for an offence under subsection (6) shall not be taken without the consent of the Attorney General for Northern Ireland.

Power to call for witnesses and documents. [j26]

41.—(1) The Assembly may require any person—

- (a) to attend its proceedings for the purpose of giving evidence; or 45

(b) to produce documents in his custody or under his control, relating to any of the matters mentioned in subsection (2).

(2) Those matters are—

- (a) transferred matters concerning Northern Ireland;
- 5 (b) other matters in relation to which statutory functions are exercisable by the Northern Ireland Ministers.

(3) The power in subsection (1) is exercisable in relation to a person outside Northern Ireland only in connection with the discharge by him of functions relating to matters within subsection (2).

10 (4) That power is not exercisable in relation to a Minister of the Crown, or a person in Crown employment within the meaning of Article 236 of the Employment Rights (Northern Ireland) Order 1996—

- (a) in connection with the discharge of functions which relate to matters within subsection (2) and which are not functions exercisable in or as regards Northern Ireland by a Minister of the Crown as well as by the Northern Ireland Ministers; or
- 15 (b) in connection with the discharge of any functions prior to the appointed day.

(5) That power may be exercised by a committee or sub-committee of the Assembly only if the committee or sub-committee is expressly authorised to do so (whether by standing orders or otherwise).

(6) The Presiding Officer shall give the person in question notice in writing specifying—

- 25 (a) the time and place at which the person is to attend and the particular matters relating to which he is required to give evidence; or
- (b) the documents, or types of documents, which he is to produce, the date by which he is to produce them and the particular matters to which they are to relate.

30 (7) Such notice shall be given—

- (a) in the case of an individual, by sending it, by registered post or the recorded delivery service, addressed to him at his usual or last known address or, where he has given an address for service, at that address;
- 35 (b) in any other case, by sending it, by registered post or the recorded delivery service, addressed to the person at the person's registered or principal office.

(8) A person is not obliged under this section to answer any question or produce any document which he would be entitled to refuse to answer or  
40 produce in proceedings in a court in Northern Ireland.

42.—(1) Subject to subsection (10) of section 41, any person to whom a notice under subsection (8) of that section has been given who—

- (a) refuses, or fails without reasonable excuse, to attend proceedings as required by the notice,
- 45 (b) refuses, when attending proceedings as required by the notice, to answer any question relating to the matters specified in the notice,

Witnesses and documents: offences. [j26A]

(c) deliberately alters, suppresses, conceals or destroys any document which he is required to produce by the notice, or

(d) refuses, or fails without reasonable excuse, to produce any such document,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months. 5

(2) It is a defence for a person charged with an offence under subsection (1)(a), (b) or (d) to prove that he had a reasonable excuse for the refusal or failure. 10

(3) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—

(a) a director, manager, secretary or other similar officer of the body corporate, or 15

(b) any person who was purporting to act in any such capacity, he, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.

#### Miscellaneous

Letters Patent etc.  
[j39]

43.—(1) Her Majesty may by Order in Council make provision as to— 20

(a) the form and manner of preparation; and

(b) the publication,

of Letters Patent signed with Her Majesty's own hand signifying Her Assent to a proposed Measure passed by the Assembly.

(2) If the First Minister and the deputy First Minister acting jointly so direct, impressions with the same device as the Great Seal of Northern Ireland shall be taken in such manner, of such size and on such material as is specified in the direction. 25

(3) Each such impression—

(a) shall be known as a Wafer Great Seal of Northern Ireland; and 30

(b) shall be kept in accordance with directions of the First Minister and the deputy First Minister acting jointly.

(4) If a Wafer Great Seal of Northern Ireland has been applied to Letters Patent mentioned in subsection (1), the document has the same validity as if it had passed under the Great Seal of Northern Ireland. 35

Privilege. [j1201]

44.—(1) For the purposes of the law of defamation, absolute privilege shall attach to—

(a) the making of a statement in proceedings of the Assembly; and

(b) the publication of a statement under the Assembly's authority.

(2) A person is not guilty of contempt of court under the strict liability rule as the publisher of any matter— 40

(a) in the course of proceedings of the Assembly which relate to a Measure or subordinate legislation; or

(b) to the extent that it consists of a report of such proceedings.

(3) In this section—

“statement” has the same meaning as in the Defamation Act 1996; 1996 c. 31.

5 “the strict liability rule” has the same meaning as in the Contempt of Court Act 1981. 1981 c. 49.

45. A member of the Assembly may at any time resign his seat by notice in writing to the Presiding Officer. Resignation of members. [j31]

46.—(1) Her Majesty may by Order in Council prorogue or further prorogue the Assembly. Prorogation. [j31A]

10 (2) Except in the case of an Order in Council—

(a) proroguing the Assembly for a period of four months or less; and

(b) not extending a previous period of prorogation,

no recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been approved by resolution of each  
15 House of Parliament.

(3) An Order in Council under this section proroguing the Assembly shall specify the period of prorogation and the Assembly shall meet at the expiration of that period; but this is—

20 (a) without prejudice to the power of Her Majesty to recall it earlier; and

(b) subject to any further prorogation or any dissolution by or under this section before the expiration of that period.

## PART V

### FINANCIAL PROVISIONS

25 47.—(1) The Consolidated Fund of Northern Ireland shall continue to exist. Consolidated Fund of Northern Ireland. [j1100]

(2) Sums forming part of the Fund—

(a) shall be appropriated to the public service of Northern Ireland by Measure; and

30 (b) shall not be applied for any purpose for which they are not appropriated.

(3) Subsection (2) is subject to any provision which charges sums on the Fund and is made—

(a) by or under an Act of Parliament; or

35 (b) by or under a Measure or other Northern Ireland legislation.

48.—(1) Subject to subsection (4), in respect of each year a sum equal to the Northern Ireland share of United Kingdom taxes shall be charged on and paid out of the Consolidated Fund of the United Kingdom into the Consolidated Fund of Northern Ireland. Payments into the Fund: taxes. [j1102]

(2) The Northern Ireland share of United Kingdom taxes in respect of each year shall be an amount, determined by the Treasury, representing the proceeds for that year of the taxes payable into the Consolidated Fund of the United Kingdom which are properly attributable to Northern Ireland after deducting the cost of collection and other appropriate costs. 5

(3) The Treasury may make regulations with respect to the method by which, for the purposes of subsection (2), proceeds and costs are to be attributed to Northern Ireland.

(4) The Treasury may by order specify a sum, to be deducted from the sum which would be payable under subsection (1) in respect of a year, as a contribution towards expenses which— 10

- (a) fall on the Consolidated Fund of the United Kingdom in respect of that year, and
- (b) relate to excepted or reserved matters.

(5) Sums payable under subsection (1) shall be paid at such times and in such manner as the Treasury determine; and payments may be made on account. 15

(6) Regulations and orders under this section shall be made by statutory instrument; and—

- (a) regulations under subsection (3) shall be subject to annulment in pursuance of a resolution of the House of Commons, and 20
- (b) an order under subsection (4) shall not be made unless a draft has been laid before and approved by the House of Commons.

Payments into the  
Fund: Secretary  
of State. [j1103]

49. The Secretary of State may from time to time make payments into the Consolidated Fund of Northern Ireland out of money provided by Parliament. 25

Financial acts of  
the Assembly.  
[j1104]

50.—(1) The Assembly may not pass a vote, resolution or Measure to which this section applies except in pursuance of a recommendation which—

- (a) is made by the Minister of Finance and Personnel; and 30
- (b) is signified to the Assembly by him or on his behalf.

(2) This section applies to a vote, resolution or Measure which—

- (a) imposes or increases a charge on the Consolidated Fund of Northern Ireland;
- (b) appropriates a sum out of that fund or increases a sum to be appropriated; 35
- (c) releases or compounds a debt owed to the Crown; or
- (d) imposes or increases a tax.

Audit. [j1105]

51.—(1) The Comptroller and Auditor-General for Northern Ireland shall be appointed by Her Majesty. 40

(2) The accounts of the Consolidated Fund of Northern Ireland shall be audited by the Comptroller and Auditor-General for Northern Ireland in accordance with the Exchequer and Audit (Northern Ireland) Act 1921.

1921 c. 2.

(3) Subsection (2) is subject to any provision made by Measure or by an Act of the Parliament of Northern Ireland.

## PART VI

## HUMAN RIGHTS AND EQUAL OPPORTUNITIES

5 *The Northern Ireland Human Rights Commission*

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

The Northern  
Ireland Human  
Rights  
Commission.  
[j900]

(2) The Commission shall consist of a chairman and other members appointed by the Secretary of State.

10 (3) In making appointments under this section, the Secretary of State shall have regard to the desirability of the Commission's membership being representative of the community in Northern Ireland.

← Reg. Community  
balance.  
Schedule

(4) Schedule 8 (which makes supplementary provision) shall have effect in relation to the Commission.

15 53.—(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.

The  
Commission's  
functions. [j904]

(2) The Commission shall advise the Secretary of State of legislative and other measures which ought to be taken to protect human rights—

20 (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.

(3) The Commission shall advise the Assembly whether a proposed Measure is compatible with human rights—

25 (a) as soon as reasonably practicable after receipt of a request for advice; and

(b) on such other occasions as the Commission thinks appropriate.

(4) The Commission may give assistance to individuals in accordance with section 54.

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

(a) research; and

35 (b) educational activities.

and power to publish. / Brit/Irish govt. still have views under Parliamentary Council.

(6) The Commission shall appoint representatives to any committee of the kind referred to in paragraph 10 of the section of the Belfast Agreement entitled Human Rights.

← Joint cross-border Committee

(7) In this section—

40 (a) a reference to the Assembly includes a reference to a committee of the Assembly;

New section on s3 (3) To consult on Bill of Rights

Human Rights  
+ EO

(b) "human rights" includes the Convention rights.

Assistance to  
individuals.  
[j914]

54.—(1) This section applies to proceedings—

(a) which an individual [in Northern Ireland] has commenced, or wishes to commence, under the Human Rights Act 1998; or

(b) in the course of which an individual relies, or wishes to rely, on section 7(1)(b) of that Act. 5

(2) Where the individual applies to the Northern Ireland Human Rights Commission for assistance in relation to proceedings to which this section applies, the Commission may grant the application on any of the following grounds— 10

(a) that the case raises [a question of principle];

(b) that it would be unreasonable to expect the individual to deal with the case without assistance because of its complexity, or because of the individual's position in relation to another person involved, or for some other reason; 15

(c) that there are other special circumstances which make it appropriate for the Commission to provide assistance.

(3) Where the Commission grants an application under subsection (2) they may—

(a) provide, or arrange for the provision of, legal advice; 20

(b) arrange for the provision of legal representation; and

(c) provide any other assistance which they think appropriate.

(4) Arrangements made by the Commission for the provision of assistance to an individual may include provision for recovery of expenses from the individual in certain circumstances. 25

Standing  
Advisory  
Commission on  
Human Rights:  
dissolution.  
[j908]

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

(2) The Secretary of State may by order made by statutory instrument make such supplemental, incidental or consequential provision as appears to him to be appropriate as a result of subsection (1); in particular, an order may include provision— 30

(a) amending an enactment;

(b) for the transfer of rights and liabilities;

(c) for payments into the Consolidated Fund or to a specified person.

### *The Northern Ireland Equality Commission* 35

The Northern  
Ireland Equality  
Commission.  
[j906]

56.—(1) There shall be a body corporate to be known as the Northern Ireland Equality Commission.

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

(3) The Secretary of State shall appoint— 40

(a) one member as chairman; and

(b) at least one member as deputy chairman.

(4) In making appointments under this section, the Secretary of State shall have regard to the desirability of the Commission's membership being representative of the community in Northern Ireland.

5 (5) Schedule 8 (which makes supplementary provision) shall have effect in relation to the Commission.

57.—(1) The functions exercisable by the bodies listed in subsection (2) shall instead be exercisable by the Equality Commission; and the bodies listed are hereby dissolved.

The Commission's principal functions. [j909]

10 (2) Those bodies are—

- (a) the Fair Employment Commission for Northern Ireland;
- (b) the Equal Opportunities Commission for Northern Ireland;
- (c) the Commission for Racial Equality for Northern Ireland.

15 (3) The functions exercisable by the Northern Ireland Disability Council shall instead be exercisable by the Equality Commission.

(4) The Secretary of State may by order made by statutory instrument make such supplemental, incidental or consequential provision as appears to him to be appropriate as a result of subsections (1) to (3); in particular, an order may include provision—

- 20 (a) amending an enactment;
- (b) for the transfer of rights and liabilities;
- (c) for payments into the Consolidated Fund or to a specified person.

(5) An order under subsection (4) shall be subject to annulment pursuant to a resolution of either House of Parliament.

Public bodies drawing statutory schemes

25

### Equality: general

58.—(1) A public authority in Northern Ireland shall in carrying out its functions have regard to the need to promote equality of opportunity between all persons regardless of—

Statutory duty on public authorities. [j910]

- 30 (a) religious belief;
- (b) political opinion;
- (c) racial group;
- (d) sex;
- (e) disability;
- (f) age;
- 35 (g) marital status;
- (h) whether they have dependants; and
- (j) sexual orientation.

40 (2) A public authority in Northern Ireland shall in carrying out its functions have regard to the desirability of promoting good relations between persons of different—

- (a) religious belief;

Competing obligation

Delete

competing with s(58.1)

- (b) political opinion; and
- (c) racial group.

(3) In this section "public authority" means—

- (a) the First Minister and the deputy First Minister;
- (b) a Northern Ireland Minister;
- (c) a Northern Ireland department;

S.I. 1996/1297  
(N.I. 7).

- (d) any body, for the time being listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation);

- (e) any other person designated for the purposes of this section by 10 order made by the Secretary of State.

(4) Schedule 9 (which makes provision for the enforcement of the duties under this section) shall have effect.

(5) In this section—

1995 c. 50.

"disability" has the same meaning as in the Disability Discrimination Act 1995; and

S.I. 1997/[] (N.I.  
[]).

"racial group" has the same meaning as in the Race Relations (Northern Ireland) Order 1997.

(6) An order under subsection (3)(d)—

- (a) shall be made by statutory instrument; and
- (b) shall not be made unless a draft has been laid before, and approved by, each House of Parliament.

Discrimination  
by public  
authorities. [j915]

59.—(1) It shall be unlawful for a public authority discharging functions relating to Northern Ireland to discriminate, or to aid or incite another person to discriminate, against a person or class on the ground of religious belief or political opinion. 25

(2) An act which contravenes this section is actionable in Northern Ireland at the instance of any person adversely affected by it; and the court may—

- (a) grant damages;
- (b) subject to subsection (3), grant an injunction restraining the defendant from committing, causing or permitting further contraventions of this section.

(3) Without prejudice to any other power to grant an injunction, a court may grant an injunction under subsection (2) only if satisfied that the defendant— 35

- (a) contravened this section on the occasion complained of and on more than one previous occasion; and
- (b) is likely to contravene this section again unless restrained by an injunction. 40

(4) This section does not apply in relation to an act which is unlawful by virtue of an enactment other than a provision of this Act.

(5) The following are public authorities for the purposes of this section—

- (a) a Minister of the Crown;

- (b) the First Minister and the deputy First Minister;
- (c) a Northern Ireland Minister;
- (d) a Northern Ireland department;
- 5 (e) an authority or body listed in Schedule 2 to the Parliamentary Commissioner Act 1967 (bodies subject to investigation); 1967 c.13.
- (f) any body for the time being listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) or in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996 (authorities subject to investigation); S.I. 1996/1297 (N.I. 7).  
S.I. 1996/1298 (N.I. 8).
- 10 (g) the Police Authority for Northern Ireland, the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve; and
- (h) the Post Office.

60.—(1) Subject to subsections (2) and (3), an authority or body to which this section applies may not require a person to take an oath or make a declaration as a condition of— Unlawful oaths etc. [1200]

- (a) being appointed to the authority or body;
- (b) acting as a member of the authority or body; or
- (c) serving with or being employed by that authority or body.
- 20 (2) Subsection (1) shall not prevent a person being required to take an oath, or make a declaration, which is expressly required or authorised—
  - (a) by the law in force immediately before this section comes into force; or
  - (b) by or under this Act or a subsequent Act or Measure.
- 25 (3) Subsection (1) shall not prevent a person being required to make a declaration—
  - (a) of acceptance of office;
  - (b) that he is qualified to act, serve or be employed in a capacity; or
  - 30 (c) that he is not disqualified from acting, serving or being employed in a capacity.
- (4) This section applies to—
  - (a) the Assembly;
  - (b) any body listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation); and
  - 35 (c) any authority listed in Schedule 2 to the Ombudsman (Northern Ireland) Order 1996 (authorities subject to investigation).
- (5) Subsections (1) to (3) apply with the necessary modifications to
  - (a) the First Minister and the deputy First Minister;
  - 40 (b) a Northern Ireland Minister; and
  - (c) a Northern Ireland department.

(6) An act which contravenes this section is actionable at the instance of any person adversely affected by it; and the court may—

- (a) grant damages;

- (b) subject to subsection (7), grant an injunction restraining the defendant from committing, causing or permitting further contraventions of this section.

(7) Without prejudice to any other power to grant an injunction, a court may grant an injunction under subsection (6) only if satisfied that the defendant— 5

- (a) contravened this section on the occasion complained of and on more than one previous occasion; and

- (b) is likely to contravene this section again unless restrained by an injunction. 10

(8) In this section a reference to a declaration includes a reference to any kind of undertaking or affirmation, by whatever name.

Removal of restrictions on investigation into maladministration. [j61]

61.—(1) The provisions mentioned in subsection (2) (which preclude certain persons from conducting an investigation when the person aggrieved has or had a remedy by way of proceedings in a court of law) shall not apply to an investigation of a complaint alleging maladministration involving— 15

- (a) discrimination on the ground of religious belief or political opinion; or  
(b) a requirement in contravention of section 60 to take an oath or make a declaration (within the meaning of that section). 20

(2) The provisions are

1967 c.13.

S.I. 1996/1297  
(N.I.7).

S.I. 1996/1298  
(N.I.8).

- (a) section 5(2)(b) of the Parliamentary Commissioner Act 1967;  
(b) Article 9(3)(b) of the Commissioner for Complaints (Northern Ireland) Order 1996; and 25  
(c) Article 10(3)(b) of the Ombudsman (Northern Ireland) Order 1996.

## PART VII

### MISCELLANEOUS AND GENERAL

#### *Remuneration of members of Assembly* 30

Remuneration of members of Assembly. [j81]

62.—(1) The Assembly shall pay to members of the Assembly salaries at such levels as the Assembly may from time to time determine.

(2) The Assembly may pay to members of the Assembly allowances at such levels as the Assembly may from time to time determine.

(3) A determination under this section may provide— 35

- (a) for higher levels of salaries to be payable to members of the Assembly—

(i) holding a Ministerial office;

(ii) holding office as Presiding Officer or deputy; or

(iii) holding an office specified in standing orders; and 40

- (b) for different salaries to be payable to members of the Assembly holding different such offices.

(4) A determination under this section may provide for different allowances for different cases.

(5) A determination under this section may provide for levels of salaries or allowances to change from time to time by reference to a specified formula.

(6) The Assembly may not delegate the function of making a determination under this section.

(7) Standing orders must include provision for the publication of every determination under this section.

10 (8) For the purposes of this section—

(a) the term of office of a member of the Assembly begins on the day on which he takes his seat in accordance with standing orders and ends with day on which he vacates it; and

15 (b) the term of office of a person holding such an office as is mentioned in subsection (2)(a) begins on the day on which he takes up office and ends with day on which he ceases to hold it.

(9) In this section “Ministerial office” means office as the First Minister, the deputy First Minister or a Northern Ireland Minister.

20 (10) Any expenditure incurred by the Assembly under this section shall be defrayed out of money appropriated by Measure.

63.—(1) The Assembly shall ensure that the amount of salary payable to a member of the Assembly in accordance with section 62 is reduced if any salary is payable to him—

Limits on salaries of members of Assembly. [j81A]

25 (a) pursuant to a resolution (or combination of resolutions) of either House of Parliament relating to the remuneration of members of that House; or

(b) under section 1 of the European Parliament (Pay and Pensions) Act 1979 (remuneration of United Kingdom MEPs).

1979 c.50.

(2) The Assembly shall ensure that the amount of salary is reduced—

30 (a) to a particular proportion of what it would otherwise be or to a particular amount; or

(b) by the amount of any salary payable to the member as mentioned in subsection (1)(a) or (b), by a particular proportion of that amount or by some other particular amount.

35 64.—(1) The Assembly may make provision for the payment of pensions, gratuities or allowances to, or in respect of, any person who—

Pensions etc. [j82]

(a) has ceased to be a member of the Assembly; or

(b) has ceased to hold such an office as is mentioned in section 62(3)(a) but continues to be a member of the Assembly.

40 (2) Such provision may, in particular, include provision for—

(a) contributions or payments towards provision for such pensions, gratuities or allowances;

(b) the establishment and administration (whether by the Commission or otherwise) of one or more pension schemes.

(3) In this section "provision" includes provision

(a) by a measure; or

(b) by a resolution of the Assembly confirmed by the Commission.

(4) Any expenditure incurred by the Assembly under this section shall be defrayed out of money appropriated by Measure.

*Bodies established under Belfast Agreement*

Consultation with  
CCF. [j86]

65.—(1) The First Minister and deputy First Minister acting jointly shall make arrangements for obtaining from the Forum the views of the community on social, economic and cultural matters. 10

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

(3) The Assembly shall defray the Forum's expenses and provide the Forum with, or ensure that the Forum is provided with, the property, staff and services required for the Forum's purposes. 15

(4) In this section "the Forum" means the Consultative Civic Forum established in pursuance of paragraph 34 of Strand One of the Belfast Agreement. ✓

(5) Any expenditure incurred by the Assembly under this section shall be defrayed out of money appropriated by Measure. 20

Participation in  
NSMC, BIC and  
BIIC. [j41]

66.—(1) The First Minister and the deputy First Minister acting jointly shall ensure that there is—

(a) such participation in the North-South Ministerial Council as appears to them to be required by Strand Two of the Belfast Agreement; 25

(b) such participation in the British-Irish Council as appears to them to be required by Strand Three of that Agreement; and

(c) such participation in the British-Irish Intergovernmental Conference as appears to them, after consultation with the Government of the United Kingdom and the Government of Ireland, to be required by Strand Three.

(2) A Northern Ireland Minister shall participate in either of the Councils if the First Minister and the deputy First Minister acting jointly direct him to do so.

(3) In this section "participation" means participation by Northern Ireland Ministers and includes, in relation to any of the bodies—

(a) consulting with the other member or members of that body; and

(b) making agreements with them in respect of transferred matters.

Recognition etc.  
of  
implementation  
bodies. [j42]

67.—(1) The Secretary of State may make an order about any body which he thinks is established for the purpose referred to in paragraph 40 9(ii) of Strand Two of the Belfast Agreement.

(2) An order under this section may—

(a) confer on the body the legal capacities of a body corporate;

pphon  
NS Council  
BI Council

(3) In this section "provision" includes provision—

- (a) by a measure; or
- (b) by a resolution of the Assembly conferring functions on the Commission.

(4) Any expenditure incurred by the Assembly under this section shall be defrayed out of money appropriated by Measure. 5

*Bodies established under Belfast Agreement*

Consultation with  
CCF. [j86]

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NSMC, BIC and  
BIIC. [j41]

66.—(1) The First Minister and the deputy First Minister acting jointly shall ensure that there is—

- (a) such participation in the North-South Ministerial Council as appears to them to be required by Strand Two of the Belfast Agreement; 25
- (b) such participation in the British-Irish Council as appears to them to be required by Strand Three of that Agreement; and
- (c) such participation in the British-Irish Intergovernmental Conference as appears to them, after consultation with the Government of the United Kingdom and the Government of Ireland, to be required by Strand Three.

(2) A Northern Ireland Minister shall participate in either of the Councils if the First Minister and the deputy First Minister acting jointly direct him to do so.

(3) In this section "participation" means participation by Northern Ireland Ministers and includes, in relation to any of the bodies—

- (a) consulting with the other member or members of that body; and
- (b) making agreements with them in respect of transferred matters.

Recognition etc.  
of  
implementation  
bodies. [j42]

67.—(1) The Secretary of State may make an order about any body which he thinks is established for the purpose referred to in paragraph 40 9(ii) of Strand Two of the Belfast Agreement.

(2) An order under this section may—

- (a) confer on the body the legal capacities of a body corporate;

pphon  
NS Council  
BI Council

- (b) confer on the body any power or duty which the Secretary of State considers necessary or expedient for the purpose referred to in that paragraph;
  - (c) make consequential or supplementary provisions, including provisions amending or repealing any enactment.
- 5
- (3) An order under this section—
- (a) shall be made by statutory instrument; and
  - (b) shall not be made unless a draft has been laid before, and approved by, each House of Parliament.
- 10
- (4) Before revoking an order under this section, the Secretary of State shall have regard to whether the Assembly has by Measure made provision corresponding to that made by the order.

*Judicial scrutiny*

68. Schedule 10 (which makes provision in relation to devolution issues) shall have effect.

Devolution issues. [j43]

69.—(1) This section applies where any court or tribunal decides that any provision of a Measure is not within the legislative competence of the Assembly.

Powers of courts or tribunals to vary retrospective decisions. [j43A]

(2) The court or tribunal may make an order—

- (a) removing or limiting any retrospective effect of the decision; or
- (b) suspending the effect of the decision for any period and on any conditions to allow the defect to be corrected.

(3) In deciding whether to make an order under this section, the court or tribunal shall (among other things) have regard to the extent to which persons who are not parties to the proceedings would otherwise be adversely affected.

(4) Where a court or tribunal is considering whether to make an order under this section, it shall order notice of that fact to be given to the Attorney General for Northern Ireland unless he is a party to the proceedings or has been given notice under Schedule 10 of any devolution issue which has arisen in the proceedings.

(5) Where the Attorney General is given notice under subsection (4), he may take part as a party in the proceedings so far as they relate to the making of the order.

(6) Paragraphs 36 and 37 of Schedule 10 apply with necessary modifications for the purposes of subsections (4) and (5) as they apply for the purposes of that Schedule.

70.—(1) Any decision of the Judicial Committee in proceedings under this Act shall be stated in open court and shall be binding in all legal proceedings (other than proceedings before the Committee).

The Judicial Committee. [j44]

(2) No member of the Judicial Committee shall sit and act as a member of the Committee in proceedings under this Act unless he holds or has held—

- (a) the office of a Lord of Appeal in Ordinary; or

- 1876 c.59. (b) high judicial office as defined in section 25 of the Appellate Jurisdiction Act 1876 (ignoring for this purpose section 5 of the Appellate Jurisdiction Act 1887).
- 1887 c.70. (3) Her Majesty may by Order in Council—
- (a) confer on the Judicial Committee in relation to proceedings under this Act such powers as Her Majesty considers necessary or expedient; 5
- 1833 c.41. (b) apply the Judicial Committee Act 1833 in relation to proceedings under this Act with exceptions or modifications;
- (c) make rules for regulating the procedure in relation to proceedings under this Act before the Judicial Committee. 10
- (4) In this section "proceedings under this Act" means proceedings on a question referred to the Judicial Committee under section 10 or proceedings under Schedule 10.

*Power to make provision by Order in Council*

Provision with  
respect to certain  
matters relating to  
Northern Ireland.  
[j55]

71.—(1) Her Majesty may by Order in Council make provision with respect to the following matters—

- (a) elections (but not the franchise) and boundaries in respect of local authorities in Northern Ireland;
- (b) any reserved matter. 20

(2) Her Majesty may by Order in Council make such amendments of the law of any part of the United Kingdom as appear to Her Majesty to be necessary or expedient in consequence of any provision made by or under—

- (a) any Measure or other Northern Ireland legislation; or 25
- (b) any Act of the Parliament of the United Kingdom passed before this Act in so far as the provision is part of the law of Northern Ireland.

(3) An Order in Council under subsection (1) or (2) may contain such consequential and supplemental provisions as appear to Her Majesty to be necessary or expedient. 30

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

(5) Subsection (4) does not apply to an Order in Council which— 35

- (a) is made under subsection (1)(b);
- (b) declares that it has been made to appear to Her Majesty that by reason of urgency the Order requires to be made without a draft having been approved as mentioned in subsection (4).

(6) Any such Order in Council as is mentioned in subsection (5)— 40

- (a) shall be laid before Parliament after being made; and
- (b) if at the end of the period of 40 days after the date on which it is made it has not been approved by resolution of each House, shall then cease to have effect (but without prejudice to anything previously done under it or to the making of a new Order). 45

(7) In reckoning the period mentioned in subsection (6), no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- 5 (8) References to Measures in any enactment or instrument shall, so far as the context permits, be deemed to include references to Orders in Council under paragraph (b) of subsection (1); and Orders in Council under that paragraph may be omitted from any annual edition of statutory instruments made by virtue of section 8 of the Statutory Instruments Act 1946 c.36.
- 10 1946.

72.—(1) Her Majesty may by Order in Council make such provision, including provision amending the law of any part of the United Kingdom, as appears to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, this Act or any Order under section 4. Provision for purposes consequential on Act etc. [j56]

- 15 (2) Provision may be made, with effect from the appointed day, for anything which immediately before that day would, apart from the said Act of 1972 or section 31 above, fall to be done by or to the Parliament of Northern Ireland or either House of that Parliament in connection with any matter (other than the passing of Acts of that Parliament) to be done
- 20 instead by or to—

(a) in so far as that matter appears to Her Majesty to be an excepted matter or reserved matter, the Parliament of the United Kingdom or either House of that Parliament;

- 25 (b) in so far as that matter appears to Her Majesty to be a transferred matter, the Assembly.

- (3) Provision may be made for any sums to be charged on and payable out of, or payable into, the Consolidated Fund of the United Kingdom or the Consolidated Fund of Northern Ireland or for any sums to be paid out of moneys provided by Parliament or out of moneys appropriated by
- 30 Measure.

(4) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been approved by resolution of each House of Parliament.

#### *Land purchase annuities*

- 35 73.—(1) Subject to subsection (2), land purchase annuities shall be collected by the Department of Agriculture and paid into the Consolidated Fund of Northern Ireland. Land purchase annuities etc. [j45]

(2) A land purchase annuity may be extinguished by, or redeemed with the agreement of, the Government of Northern Ireland.

- 40 (3) The Irish Land Purchase Fund shall be wound up and the money standing to its credit shall be paid into the Consolidated Fund of the United Kingdom.

- (4) In this section "land purchase annuities" means annuities for the repayment of advances made under any enactment relating to land
- 45 purchase in Northern Ireland.

PART VIII  
SUPPLEMENTAL

Savings for  
existing laws.  
[j51]

74.—(1) Except so far as otherwise provided by or under this Act, nothing in this Act shall affect the continued operation in or in relation to Northern Ireland of any law in force at the passing or commencement of this Act.

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(2) The laws continued by section 61 of the 1920 Act shall continue to have effect to the extent provided for by that section (but with any modification necessary for adapting them to this Act).

(3) No law made by the Assembly shall have effect so as to prejudice or diminish the rights or privileges of any pensioned officer of a local authority under the provisions of the Local Government (Ireland) Acts 1898 to 1919.

(4) No provision of this Act shall—

- (a) affect the operation before the coming into force of that provision of any Measure, Act of the Parliament of Northern Ireland or other instrument; or
- (b) render unlawful anything required or authorised to be done by any Act of the Parliament of the United Kingdom, whenever passed.

20

(5) Schedule 11 (which provides for the construction of certain references in existing laws) shall have effect.

Interpretation and  
supplemental.  
[j52]  
1920 c. 67.

75.—(1) In this Act—

“the 1920 Act” means the Government of Ireland Act 1920;

“the appointed day” has the meaning given by section 3(1);

25

“the Assembly” has the meaning given by section 5(1);

“the Belfast Agreement” means the agreement reached at multi-party talks on Northern Ireland set out in Command Paper 3883;

1998 c.00.

“the Convention rights” has the same meaning as in the Human Rights Act 1998;

30

“the Commission” has the meaning given by section 37(1);

“Community law” means—

(a) all rights, powers, liabilities, obligations and restrictions created or arising by or under the Community Treaties; and

35

(b) all remedies and procedures provided for by or under those Treaties;

“cross-community support” has the meaning given by section 4(6);

“designated Nationalist” and “designated Unionist” have the meanings given by section 4(5);

40

1998 c.12.

“the Elections Act” means the Northern Ireland (Elections) Act 1998;

1978 c.30.

“enactment” includes any provision of Northern Ireland legislation within the meaning of section 24 of the Interpretation Act 1978;

“excepted matter” has the meaning given by section 4(1);

"international obligations" means any international obligations of the United Kingdom other than obligations—

(a) under Community law; or

5 (b) not to do acts incompatible with any of the Convention rights;

"Judicial Committee" means the Judicial Committee of the Privy Council;

10 "Northern Ireland" includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Northern Ireland;

"Northern Ireland legislation" has the same meaning as in section 24 of the Interpretation Act 1978;

1978 c.30.

"the pledge of office" has the meaning given by section 16(5);

15 "political opinion" and "religious belief" have the same meanings as in the Fair Employment (Northern Ireland) Act 1976;

1976 c.25.

"property" includes rights and interests of any description;

"reserved matter" has the meaning given by subsection (1) of section 4 (read with subsection (2) of that section);

"transferred matter" has the meaning given by section 4(1).

20 (2) For the purposes of this Act a Measure, Northern Ireland legislation or any other instrument discriminates against any person or class of persons if it treats that person or that class less favourably in any circumstances than other persons are treated in those circumstances by the law for the time being in force in Northern Ireland.

25 (3) For those purposes a person discriminates against another person or a class of persons if he treats that other person or that class less favourably in any circumstances than he treats or would treat other persons in those circumstances.

30 (4) No Measure, Northern Ireland legislation or other instrument and no act done by any person shall be treated for the purposes of this Act as discriminating if the instrument has the effect, or the act is done for the purpose, of safeguarding national security or protecting public safety or public order.

35 (5) A certificate purporting to be signed by or on behalf of the Secretary of State and certifying that an act specified in the certificate was done for the purpose of safeguarding national security shall be conclusive evidence that it was done for that purpose.

Delet c.

40 76. The enactments mentioned in Schedule 12 to this Act shall have effect subject to the amendments there specified, being minor amendments and amendments consequential on the provisions of this Act.

Minor and consequential amendments. [j97]

45 77.—(1) The transitional provisions and savings contained in Schedule 13 to this Act shall have effect; but nothing in this subsection shall be taken as prejudicing the operation of sections 16 and 17 of the Interpretation Act 1978 (which relate to the effect of repeals).

Transitional provisions, savings and repeals. [j98]

(2) The enactments specified in Schedule 14 to this Act, which include some that are spent, are hereby repealed to the extent specified in the third column of that Schedule.

Short title and  
commencement.  
[199]

78.—(1) This Act may be cited as the Northern Ireland Act 1998.

(2) Section 3 and this section shall come into force on the day on which this Act is passed. 5

(3) The remaining provisions of this Act (except Parts II and III) 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. 10

## SCHEDULE 2

### EXCEPTED MATTERS UNDER

1. The Crown, including the succession to the Crown and a regent, 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;

(c) the territories or the land or inland or their natural resources as 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 treaties, the making of peace or war and armistices, and external matters but not—

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

(b) the exercise of legislative power as far as required for giving effect to any

## SCHEDULES

## SCHEDULE 1

Section 1(1).

## POLLS FOR THE PURPOSES OF SECTION 1 [J201]

1. The Secretary of State may by order direct the holding of a poll for the  
5 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.
- 10 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
- 15 (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
- 20 (b) may apply (with or without modification) any provision of, or made  
under, any enactment.
- (3) An order—
- (a) shall be made by statutory instrument; and
- 25 (b) shall not be made unless a draft has been laid before, and approved by  
resolution of, each House of Parliament.

## SCHEDULE 2

Section 4(1).

## EXCEPTED MATTERS [J202]

1. The Crown, including the succession to the Crown and a regency, but  
not—
- 30 (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
- 35 purposes of a government department;
- (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.
- 40 3. International relations, including treaties, the making of peace or war and  
neutrality, and connected matters but not—
- (a) the surrender of fugitive offenders between Northern Ireland and  
Ireland;
- (b) the exercise of legislative powers so far as required for giving effect to any

## SCH. 2

agreement or arrangement made—

- (i) in pursuance of section 26 or 66; or  
 (ii) by, or in relation to the activities of, any body which is the subject of an order under section 67;
- (c) the exercise of legislative powers for any of the purposes mentioned in section 2(2)(a) or (b) of the European Communities Act 1972, or for purposes similar to those of any of sections 5 to 12 of, or any paragraph of Schedule 4 to, that Act.

1972 c. 68.

4. The defence of the realm; the armed forces of the Crown but not any matter within paragraph 10 of Schedule 3 to this Act.

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

6. Dignities and titles of honour.

7. Treason and treason felony but not powers of arrest or criminal procedure.

8. Nationality; immigration; aliens as such.

9. Taxes under any law applying to the United Kingdom as a whole, existing Northern Ireland taxes and taxes substantially of the same character as any of those taxes.

In this paragraph "existing Northern Ireland taxes" means any of the following taxes levied in Northern Ireland before the appointed day, that is to say, inheritance tax, stamp duty, general betting duty, pool betting duty, duty on gaming machine licences and duty on licences in respect of mechanically-propelled vehicles.

10. The appointment and removal of judges of the Supreme Court of Judicature of Northern Ireland, 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.

11. The appointment and office of the Director and deputy Director of Public Prosecutions for Northern Ireland.

12. The appointment and office of lord-lieutenants, lieutenants and deputy lieutenants.

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

14. Coinage, legal tender and bank notes.

15. The National Savings Bank.

16. 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.

17. Any matter for which provision is made by this Act, but not—

(a) matters in respect of which it is stated by this Act that provision may be made by Measure; or

(b) matters specified in Schedule 3 to this Act;

and this paragraph shall not be taken to apply to any matter by reason only that provision is made in respect of it by an Order in Council under this Act.

## SCHEDULE 3

Section 4(1).

## RESERVED MATTERS [J203]

1. Any such property as is mentioned in paragraph 1(b) of Schedule 2 but not as respects any aerodrome or harbour.

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

3. Civil aviation but not aerodromes.

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

5. Domicile.

6. Postal services, including the issue, transmission and payment of money and postal orders issued by the Post Office; designs for postage stamps.

15 7. Disqualification for membership of the Assembly; privileges, powers and immunities of the Assembly, its members and committees greater than those conferred by section [privileges, remuneration, etc.].

8. The following matters—

(a) the criminal law, including the creation of offences and penalties;

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

(c) prosecutions;

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

25 (e) the surrender of fugitive offenders between Northern Ireland and Ireland;

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

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

30 9. 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, but not any matter within paragraph 16 of Schedule 2.

10. The establishment, organisation and control of the Royal Ulster  
35 Constabulary and of any other police force; the Police Authority for Northern Ireland; traffic wardens.

11. Firearms and explosives.

12. Civil defence.

13. The Emergency Powers Act (Northern Ireland) 1926 or any enactment for  
40 similar purposes.

14. All matters, other than those specified in paragraph 10 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  
45 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;

SCH. 3	(b) the regulation of the profession of solicitors.	
	15. 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,	5
	but not any matter within paragraph 10 of Schedule 2.	
	16. 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;	10
	(c) the prevention of disease or the control of weeds and pests;	
	(d) aerodromes and harbours.	
1993 c.48.	17. The matters dealt with by the following provisions of the Pension Schemes Act 1993—	15
	(a) sections 16(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)].	
	18. Regulation of the following—	20
	(a) building societies;	
	(b) banking;	
1974 c.46.	(c) friendly societies and the other societies to which the Friendly Societies Act 1974 applies.	
	19. Regulation of the following—	25
	(a) investment business, the official listing of securities and offers of unlisted securities;	
	(b) the transfer of securities;	
	(c) insider dealing.	
	20. Trade marks, service marks and design, copyright, patent and topography rights.	30
	21. Units of measurement and United Kingdom primary standards.	
	22. Telecommunications.	
	23. Wireless telegraphy, and the provision of programme services (within the meaning of the Broadcasting Act 1990).	35
1990 c.42.	24. The National Lottery (except in so far as any matter within Schedule 2 is concerned).	
	25. Xenotransplantation.	
1985 c.49.	26. Surrogacy arrangements, within the meaning of the Surrogacy Arrangements Act 1985, including the subject-matter of that Act.	40
1990 c.37.	27. The subject-matter of the Human Fertilisation and Embryology Act 1990.	
	28. Human genetics.	
	29. Consumer safety.	
1990 c.43.	30. The making and revision of plans under section 3(5) of the Environmental Protection Act 1990 (emission limits); the environmental	45

protection technology scheme for research and development in the United Kingdom.

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31. The subject-matter of—

(a) the Data Protection Act 1984; and

1984 c.35.

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

32. Nuclear installations.

33. Regulation of activities in outer space.

10 34. Oaths and declarations (including all undertakings and affirmations, by whatever name) other than those within section 60(3).

#### SCHEDULE 4

Section 6(2).

##### ENACTMENTS PROTECTED FROM MODIFICATION [J204]

##### *European Communities Act 1972*

15 1.—(1) The following provisions of the European Communities Act 1972 shall not be modified—

(a) section 1 and Schedule 1;

(b) section 2, other than subsection (2), the words following “such Community obligation” in subsection (3) and the words “subject to Schedule 2 to this Act” in subsection (4);

20 (c) section 3(1) and (2); and

(d) section 11(2).

(2) Sub-paragraph (1), read with section 6(2)(b), is to be disregarded for the purpose of determining whether the exercise of any function is within or outside devolved competence.

25 *Human Rights Act 1998*

2. The Human Rights Act 1998 shall not be modified.

*Treaty of Rome  
Services*

##### *This Act*

4.—(1) Subject to sub-paragraphs (2) to (5), the provisions of this Act shall not be modified.

30 (2) Sub-paragraph (1) does not prevent a Measure of the Assembly providing for rights or liabilities to which the Assembly is entitled or subject to be treated for any purposes as rights or (as the case may be) liabilities of Northern Ireland Ministers.

35 (3) Sub-paragraph (1) does not prevent a Measure of the Assembly modifying sections 37(5) and (6), 40(7) and 41(9).

(4) Sub-paragraph (1) does not prevent a Measure of the Assembly modifying any provision of this Act which—

(a) charges any sum on the Consolidated Fund of Northern Ireland;

(b) requires any sum to be paid out of that Fund without further approval; or

40 (c) requires or authorises the payment of any sum into that Fund.

(5) Sub-paragraph (1) does not prevent a Measure of the Assembly—

(a) establishing a new fund, in addition to the Consolidated Fund of Northern Ireland, out of which loans may be made by Northern Ireland Ministers; and

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- (b) making any amendments of Part IV which are necessary or expedient for the purpose or in consequence of the establishment of the new fund.

Section 16(5).

## SCHEDULE 5

## PLEDGE OF OFFICE [J207]

To pledge:

- (a) to discharge in good faith all the duties of office;
- (b) commitment to non-violence and exclusively peaceful and democratic means;
- (c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination; 10
- (d) to participate with colleagues in the preparation of a programme for government;
- (e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly; 15
- (f) to support, and act in accordance with, all decisions of the Executive Committee and Assembly;
- (g) to comply with the Ministerial Code of Conduct.

Section 37(10).

## SCHEDULE 6

## NORTHERN IRELAND ASSEMBLY COMMISSION [J208]

*Membership*

1. A person appointed under section 37(2)(b) shall hold office until another member of the Assembly is appointed in his place, unless he previously resigns or ceases to be a member of the Assembly otherwise than by virtue of a dissolution. 25

*Property*

2.—(1) The Commission may hold property.

(2) Subordinate legislation may provide—

- (a) for the transfer to the Commission of any property to which this sub-paragraph applies; or 30
- (b) for the Commission to have such rights or interests in relation to any property to which this sub-paragraph applies as the person making the legislation considers appropriate (whether in connection with a transfer or otherwise).

(3) Sub-paragraph (2) applies to any property belonging to a Minister of the Crown which appears to the person making the subordinate legislation to be property which is or may be required wholly or partly for the purposes of the Commission's functions. 35

(4) Subordinate legislation under sub-paragraph (2) in relation to any property may provide for the transfer to the Commission of any liabilities relating to the property to which a Minister of the Crown is subject and which subsist immediately before the subordinate legislation comes into force. 40

*Staff*

SCH. 6

3.—(1) The Commission may appoint staff.

(2) The persons appointed by the Commission are referred to in this Act as the staff of the Assembly.

5 (3) It is for the Commission to determine the terms and conditions of appointment of the staff of the Assembly, including arrangements for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a member of the staff of the Assembly.

(4) Accordingly, the Commission may—

- 10 (a) make contributions or payments towards provision for such pensions, gratuities or allowances;  
(b) establish and administer one or more pension schemes.

(5) The power conferred by sub-paragraph (1) includes power to make arrangements for administrative, secretarial or other assistance to be provided  
15 for the Commission by officers of the civil service of Northern Ireland or the civil service of the Crown; and the reference in sub-paragraph (2) to persons appointed by the Commission shall be construed accordingly.

*Powers*

4.—(1) Subject to sub-paragraph (3), the Commission may do anything  
20 which appears to it to be necessary or expedient for the purpose of or in connection with the discharge of its functions.

(2) That includes, in particular—

- (a) entering into contracts;  
25 (b) investing sums not immediately required in relation to the discharge of its functions; and  
(c) accepting gifts.

(3) The Commission may borrow sums in sterling by way of overdraft or otherwise for the purpose of meeting a temporary excess of expenditure over sums otherwise available to meet that expenditure.

30 (4) The Commission may borrow money only under sub-paragraph (3) and may borrow under that sub-paragraph only in accordance with the special or general approval of the Assembly.

*Delegation*

5. The Commission may delegate any of its functions to the Presiding Officer or a  
35 member of the staff of the Assembly.

*Proceedings and business*

6.—(1) The validity of any proceedings of the Commission shall not be affected by any vacancy among the members, or by any defect in the appointment, or qualification for membership, of any member.

40 (2) The Commission may determine its own procedure.

(3) The Presiding Officer shall preside at meetings of the Commission, but the Commission may appoint another of its members to preside if the office of Presiding Officer is vacant or the Presiding Officer is for any reason unable to act.

## SCH. 6

*Crown status*

7.—(1) Her Majesty may by Order in Council provide for the Commission to be treated to any extent as a Crown body for the purposes of any enactment.

(2) In particular, the Order may for the purposes of any enactment provide—

(a) for employment under the Commission to be treated as employment under the Commission as a Crown body;

(b) for land held, used or managed by the Commission, or operations carried out by or on behalf of the Commission, to be treated (as the case may be) as land held, used or managed, or operations carried out by or on behalf of, the Commission as a Crown body.

(3) For the purposes of this paragraph, "Crown body" means a body which is the servant or agent of the Crown, and includes a government department.

## Section 38(3).

## SCHEDULE 7

## STANDING ORDERS: FURTHER PROVISION [J205]

*Preservation of order*

1.—(1) The standing orders shall include provision for preserving order in the proceedings of the Assembly, including provision for—

(a) preventing conduct which would constitute a criminal offence or contempt of court; and

(b) a sub judice rule.

(2) Such provision may provide for excluding a member of the Assembly from proceedings and for withdrawing his rights and privileges as a member for the period of his exclusion.

*Proceedings to be in public*

2.—(1) The standing orders shall include provision requiring the proceedings of the Assembly to be held in public, except in such circumstances as the standing orders may provide.

(2) The standing orders may include provision as to the conditions to be complied with by any member of the public attending the proceedings, including provision for excluding from the proceedings any member of the public who does not comply with those conditions.

*Reporting and publishing proceedings*

3. The standing orders shall include provision for reporting the proceedings of the Assembly and for publishing the reports.

*Committees*

4.—(1) Standing orders which provide for the appointment of committees may include provision for those committees to have power to appoint sub-committees.

(2) The standing orders shall include provision for ensuring that, in appointing members to committees and sub-committees, regard is had to the balance of parties in the Assembly.

(3) The standing orders may include provision for excluding from the proceedings of a committee or sub-committee a member of the Assembly who is not a member of the committee or sub-committee.

## Crown interests

SCH. 7

5. The standing orders shall include provision for ensuring that a proposed Measure containing provisions which would, if the proposed Measure were a Bill for an Act of Parliament, require the consent of Her Majesty shall not pass unless such consent has been signified to the Assembly.

## SCHEDULE 8

## THE HUMAN RIGHTS AND EQUALITY COMMISSIONS [1907]

Sections 52(4) and 56(5).

## Introductory

1. In this Schedule a reference to the Commission is a reference to the Northern Ireland Human Rights Commission or the Northern Ireland Equality Commission.

Composition

## Members' tenure

- 2.—(1) Subject to the provisions of this Schedule, a member of the Commission shall hold office in accordance with the terms of his appointment.
- (2) A member shall not be appointed—
- (a) in the case of the chairman, for more than five years at a time; and
  - (b) in any other case, for more than three years at a time.
- (3) A person may resign as a member or as chairman by notice in writing to the Secretary of State.
- (4) The Secretary of State may dismiss a person from his office as member or chairman if satisfied—
- (a) that he has without reasonable excuse failed to discharge his functions for a continuous period of three months beginning not earlier than six months before the day of dismissal;
  - (b) that he has been convicted of a criminal offence;
  - (c) that a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors; or
  - (d) that he is unable or unfit to carry out his functions.
- (5) A reference in sub-paragraph (3) or (4) to the chairman includes, in relation to the Northern Ireland Equality Commission, a reference to a deputy chairman.

## Members' salary etc.

- 3.—(1) The Commission shall pay to or in respect of members—
- (a) remuneration;
  - (b) allowances and fees; and
  - (c) sums for the provision of pensions.
- in accordance with directions of the Secretary of State.
- (2) If a person ceases to be a member otherwise than on the expiry of his term of office, the Secretary of State may require the Commission to pay any compensation which he considers justified by special circumstances.
- (3) If a member was a participant in a scheme under section 1 of the Superannuation Act 1972 immediately before he became a member, the Minister for the Civil Service may determine that his term of office as a member is to be treated for the purposes of the scheme as if it were service in the employment or office by reference to which he was a participant in the scheme; and his rights under the scheme shall not be affected by sub-paragraph (1)(c).

1972 c. 11.

## SCH. 8

*Staff*

4.—(1) The Commission may employ staff subject to the approval of the Secretary of State as to—

- (a) the number of persons employed; and
- (b) the financial and other terms of their employment.

5

1972 c. 11.

(2) Employment by the Commission shall be included among the kinds of employment to which a scheme under section 1 of the Superannuation Act 1972 may apply.

*Annual report*

5.—(1) The Commission shall, as soon as reasonably practicable after the end of each year, make a report to the Secretary of State on the performance of their functions during the year.

10

(2) The Secretary of State shall lay a copy of the report before each House of Parliament.

*Money*

15

6. The Secretary of State may make grants to the Commission.

7.—(1) The Commission shall keep proper accounts and financial records.

(2) The Commission shall—

- (a) prepare a statement of accounts in respect of each financial year containing such information, and in such form, as the Secretary of State with the consent of the Treasury directs; and
- (b) send a copy to the Secretary of State and to the Comptroller and Auditor General within such period after the end of the financial year as the Secretary of State directs.

20

(3) The Comptroller and Auditor General shall—

25

- (a) examine, certify and report on the statement of accounts; and
- (b) lay a copy of the statement of accounts and of his report before each House of Parliament.

(4) For the purposes of this paragraph—

- (a) a financial year is a period of twelve months ending on 31st March; but
- (b) the first financial year is the period beginning with the day on which section 52 comes into force and ending with the first 31st March which falls at least six months after that day.

30

*Procedure*

8.—(1) In determining its own procedure the Commission may, in particular, make provision about—

35

- (a) the discharge of its functions by committees (which may include non-members);
- (b) a quorum for meetings of the Commission or a committee.

(2) The validity of any proceedings of the Commission or a committee shall not be affected by—

40

- (a) a vacancy in the office of chairman (or, in the case of the Equality Commission, deputy chairman); or
- (b) a defect in the appointment of a member.

*Disqualification*

9. In Part III of Schedule 1 to the House of Commons Disqualification Act 1975 (other disqualifying offices) at the appropriate places insert—

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1975 c. 24.

- (a) "Member of the Northern Ireland Equality Commission"; and
- (b) "Member of the Northern Ireland Human Rights Commission".

10. [In Part III of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (other disqualifying offices) at the appropriate places insert—

1975 c. 25.

- (a) "Member of the Northern Ireland Equality Commission"; and
- (b) "Member of the Northern Ireland Human Rights Commission".]

*The Northern Ireland Commissioner for Complaints*

11. In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (bodies subject to investigation) at the appropriate place[s] insert—

S.I. 1996/1297  
(N.I. 7).

- (a) "The Northern Ireland Equality Commission"; and
- (b) "The Northern Ireland Human Rights Commission".

SCHEDULE 9

Section 58(4).

EQUALITY: ENFORCEMENT OF DUTIES. [1913]

*The Equality Commission*

1. The Northern Ireland Equality Commission shall—

- (a) keep under review the effectiveness of the duties imposed by section 58;
- (b) offer advice to public authorities and others in connection with those duties; and
- (c) where it thinks appropriate, request a public authority to make a first or revised scheme showing how it proposes to fulfil those duties in relation to some or all of its functions.

*Equality schemes*

2.—(1) A public authority shall respond to a request under paragraph 1 by submitting a scheme to the Commission as soon as reasonably practicable.

(2) A scheme shall—

- (a) conform to any guidelines as to form or content which are issued by the Commission with the approval of the Secretary of State;
- (b) specify a timetable for measures proposed in the scheme; and
- (c) include details of how it will be made public.

3. Before submitting a scheme a public authority shall consult, in accordance with any directions given by the Commission, representatives of persons likely to be affected by the scheme.

4. On receipt of a scheme the Commission shall—

- (a) approve it; or
- (b) refer it to the Secretary of State.

5.—(1) Where a scheme is referred to the Secretary of State he shall—

- (a) approve it;

SCH. 9

- (b) request the public authority to make a revised scheme; or
- (c) make a scheme for the public authority.

(2) A request under sub-paragraph (1)(b) shall be treated in the same way as a request under paragraph 1(c).

6.—(1) If a public authority wishes to revise a scheme it may submit a revised scheme to the Commission. 5

(2) A revised scheme shall be treated as if it were submitted in response to a request under subsection 1(c).

### Complaints

7.—(1) If the Commission receives a complaint made in accordance with this paragraph of failure by a public authority to comply with a scheme approved or made under paragraph 4 or 5, it shall— 10

- (a) investigate the complaint; or
- (b) give the complainant reasons for not investigating.

(2) A complaint must be made in writing by a person who claims to have been directly affected by the failure. 15

(3) A complaint must be sent to the Commission during the period of 12 months starting with the day on which the complainant first knew of the matters alleged.

(4) Before making a complaint the complainant must— 20

- (a) bring the complaint to the notice of the public authority; and
- (b) give the public authority a reasonable opportunity to respond.

### Investigations

8.—(1) This paragraph applies to—

- (a) investigations required by paragraph 7; and 25
- (b) any other investigation carried out by the Commission where it believes that a public authority may have failed to comply with a scheme approved or made under paragraph 4 or 5.

(2) The Commission shall send a report of the investigation to—

- (a) the public authority concerned; 30
- (b) the Secretary of State; and
- (c) the complainant (if any).

(3) If a report recommends action by the public authority concerned and the Commission considers that the action is not taken within a reasonable time—

- (a) the Commission may refer the matter to the Secretary of State; and 35
- (b) the Secretary of State may give directions to the public authority in respect of any matter referred to him.

Section 68.

## SCHEDULE 10

### DEVOLUTION ISSUES [J206]

#### PART I

40

#### PRELIMINARY

1.—(1) In this Schedule "devolution issue" means a question—

- (a) whether any provision of a Measure of the Assembly is within the legislative competence of the Assembly;

- (b) whether any provision of subordinate legislation which a Minister or Northern Ireland department has purported to make or is proposing to make would be within the legislative competence of the Assembly if it were included in a Measure;
- 5 (c) whether a purported or proposed exercise of a function (other than a function to make subordinate legislation) by a Minister or Northern Ireland department—
- (i) relates, or would relate, to an excepted matter; and
- (ii) is not, or would not be, ancillary to other exercises of the
- 10 function (whether at the same or a previous time) which relate to reserved or transferred matters;
- (d) whether a purported or proposed exercise of a function (other than a function to make subordinate legislation) by a Minister or Northern Ireland department is, or would be, incompatible with any of the
- 15 Convention rights or with Community law;
- (e) whether a failure to act by a Minister or Northern Ireland department is incompatible with any of the Convention rights or with Community law; or
- 20 (f) whether an action, or failure to act, of a Minister or Northern Ireland department contravenes section 59.

(2) In this paragraph "Minister" means the First Minister or the deputy First Minister, or a Northern Ireland Minister.

- 25 2. A devolution issue shall not be taken to arise in any proceedings merely because of any contention of a party to the proceedings which appears to the court or tribunal before which the proceedings take place to be frivolous or vexatious.

## PART II

### PROCEEDINGS IN NORTHERN IRELAND

#### *Application of Part II*

- 30 3. This Part of this Schedule applies in relation to devolution issues in proceedings in Northern Ireland.

#### *Institution of proceedings*

- 4.—(1) Proceedings for the determination of a devolution issue may be instituted or defended by the Attorney General for Northern Ireland.
- 35 (2) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

#### *Notice of devolution issue*

5. A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General for Northern
- 40 Ireland (unless he is a party to the proceedings).
6. Where notice is given to the Attorney General for Northern Ireland in pursuance of paragraph 5, he may take part as a party in the proceedings, so far as they relate to a devolution issue.

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*Reference of devolution issue to Court of Appeal*

7. A court, other than the House of Lords or the Court of Appeal in Northern Ireland, may refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland.

8. A tribunal from which there is no appeal shall refer any devolution issue which arises in any proceedings before it to the Court of Appeal in Northern Ireland; and any other tribunal may make such a reference. 5

*References from Court of Appeal to Judicial Committee*

9. The Court of Appeal in Northern Ireland may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 7 or 8) to the Judicial Committee. 10

*Appeals from Court of Appeal to Judicial Committee*

10. An appeal against a determination of a devolution issue by the Court of Appeal in Northern Ireland on a reference under paragraph 7 or 8 shall lie to the Judicial Committee, but only with leave of the Court of Appeal in Northern Ireland or, failing such leave, with special leave of the Judicial Committee. 15

## PART III

## PROCEEDINGS IN ENGLAND AND WALES

*Application of Part III*

11. This Part of this Schedule applies in relation to devolution issues in proceedings in England and Wales. 20

*Institution of proceedings*

12.—(1) Proceedings for the determination of a devolution issue may be instituted or defended by the Attorney General or the Attorney General for Northern Ireland. 25

(2) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

*Notice of devolution issue*

13. A court or tribunal shall order notice of any devolution issue which arises in any proceedings before it to be given to the Attorney General and the Attorney General for Northern Ireland (unless the person to whom the notice would be given is a party to the proceedings). 30

14. A person to whom notice is given in pursuance of paragraph 13 may take part as a party in the proceedings, so far as they relate to a devolution issue.

*Reference of devolution issue to High Court or Court of Appeal* 35

15. A magistrates' court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the High Court.

16.—(1) A court may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Court of Appeal. 40

(2) Sub-paragraph (1) does not apply to—

(a) a magistrates' court, the Court of Appeal or the House of Lords; or

(b) the High Court if the devolution issue arises in proceedings on a reference under paragraph 18.

17. A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Court of Appeal; and any other tribunal may make such a reference.

18. A court, other than the House of Lords or the Court of Appeal, may refer any devolution issue which arises in criminal proceedings before it to—

(a) the High Court (if the proceedings are summary proceedings); or

(b) the Court of Appeal (if the proceedings are proceedings on indictment).

*References from Court of Appeal to Judicial Committee*

19. The Court of Appeal may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 16, 17 or 18) to the Judicial Committee.

*Appeals from superior courts to Judicial Committee*

20. An appeal against a determination of a devolution issue by the High Court or the Court of Appeal on a reference under paragraph 15, 16, 17 or 18 shall lie to the Judicial Committee, but only with leave of the High Court or (as the case may be) the Court of Appeal or, failing such leave, with special leave of the Judicial Committee.

PART IV

PROCEEDINGS IN SCOTLAND

*Application of Part IV*

21. This Part of this Schedule applies in relation to devolution issues in proceedings in Scotland.

*Institution of proceedings*

22.—(1) Proceedings for the determination of a devolution issue may be instituted or defended by the Lord Advocate or the Attorney General for Northern Ireland.

(2) This paragraph is without prejudice to any power to institute or defend proceedings exercisable apart from this paragraph by any person.

*Intimation of devolution issue*

23. A court or tribunal shall order intimation of any devolution issue which arises in any proceedings before it to be given to the Attorney General for Northern Ireland (unless he is a party to the proceedings).

24. Where intimation is given to the Attorney General for Northern Ireland in pursuance of paragraph 23, he may take part as a party in the proceedings, so far as they relate to a devolution issue.

*Reference of devolution issue to higher court*

25. A court, other than the House of Lords or any court consisting of three or more judges of the Court of Session, may refer any devolution issue which arises in proceedings (other than criminal proceedings) before it to the Inner House of the Court of Session.

26. A tribunal from which there is no appeal shall refer any devolution issue which arises in proceedings before it to the Inner House of the Court of Session; and any other tribunal may make such a reference.

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27. A court, other than any court consisting of two or more judges of the High Court of Justiciary, may refer any devolution issue which arises in criminal proceedings before it to the High Court of Justiciary.

*References from superior courts to Judicial Committee*

28. Any court consisting of three or more judges of the Court of Session may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 25 or 26) to the Judicial Committee. 5

29. Any court consisting of two or more judges of the High Court of Justiciary may refer any devolution issue which arises in proceedings before it (otherwise than on a reference under paragraph 27) to the Judicial Committee. 10

*Appeals from superior courts to Judicial Committee*

30. An appeal against a determination of a devolution issue by the Inner House of the Court of Session on a reference under paragraph 25 or 26 shall lie to the Judicial Committee.

31. An appeal against a determination of a devolution issue by— 15

- (a) a court of two or more judges of the High Court of Justiciary (whether in the ordinary course of proceedings or on a reference under paragraph 27); or
- (b) a court of three or more judges of the Court of Session from which there is no appeal to the House of Lords,

shall lie to the Judicial Committee, but only with leave of the court concerned or, failing such leave, with special leave of the Judicial Committee. 20

PART V

GENERAL

*Proceedings in the House of Lords*

32. Any devolution issue which arises in judicial proceedings in the House of Lords shall be referred to the Judicial Committee unless the House considers it more appropriate, having regard to all the circumstances, that it should determine the issue. 25

*Direct references to Judicial Committee*

33. The Attorney General for Northern Ireland, the Attorney General or the Lord Advocate may require any court or tribunal to refer to the Judicial Committee any devolution issue which has arisen in proceedings before it to which he is a party. 30

34. The Attorney General for Northern Ireland, the Attorney General or the Lord Advocate may refer to the Judicial Committee any devolution issue which is not the subject of proceedings. 35

35.—(1) This paragraph applies where a reference is made under paragraph 34 in relation to a devolution issue which relates to the proposed exercise of a function by a Northern Ireland Minister.

(2) The person making the reference shall notify the Northern Ireland Minister of that fact. 40

(3) No Northern Ireland Minister shall exercise the function in the manner proposed during the period beginning with the receipt of the notification under sub-paragraph (2) and ending with the reference being decided or otherwise disposed of. 45

(4) Proceedings relating to any possible failure by a Northern Ireland Minister to comply with sub-paragraph (3) may be instituted by the Attorney General for Northern Ireland.

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(5) Sub-paragraph (4) is without prejudice to any power to institute proceedings exercisable apart from that sub-paragraph by any person.

#### *Expenses*

36.—(1) A court or tribunal before which any proceedings take place may take account of any additional expense of the kind mentioned in sub-paragraph (3) in deciding any question as to costs or expenses.

10 (2) In deciding any such question, the court or tribunal may award the whole or part of the additional expense as costs or (as the case may be) expenses to the party who incurred it (whatever the decision on the devolution issue).

(3) The additional expense is any additional expense which the court or tribunal considers that any party to the proceedings has incurred as a result of the participation of any person in pursuance of paragraph 6, 14 or 24.

#### *Procedure of courts and tribunals*

37. Any power to make provision for regulating the procedure before any court or tribunal shall include power to make provision for the purposes of this Schedule including, in particular, provision—

- 20 (a) for prescribing the stage in the proceedings at which a devolution issue is to be raised or referred;
- (b) for the staying or sisting of proceedings for the purpose of any proceedings under this Schedule; and
- 25 (c) for determining the manner in which and the time within which any intimation or notice is to be given.

#### *Interpretation*

38. Any duty or power conferred by this Schedule to refer a devolution issue to a court shall be construed as a duty or (as the case may be) power to refer the issue to the court for decision.

30

### SCHEDULE 11

Section 74(5).

#### CONSTRUCTION OF REFERENCES IN EXISTING LAWS. [1202]

##### *Preliminary*

1.—(1) Enactments and instruments shall, except where the context otherwise requires, be construed in accordance with this Schedule.

35 (2) In this Schedule "instruments" includes charters, contracts and other documents.

##### *Legislation etc of the Parliament or the old Assembly*

2.—(1) A reference to—

- (a) an Act or enactment of, or a Bill in, the Parliament of Northern Ireland; or
- 40 (b) a Measure or proposed Measure of the Assembly established by the Northern Ireland Assembly Act 1973,

1973 c.17.

shall be construed as including a reference to a Measure or proposed Measure of the Northern Ireland Assembly.

(2) A reference to a resolution or other decision of—

- 45 (a) the Senate or the House of Commons of the Parliament of Northern Ireland, or of either House of that Parliament; or

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1973 c.17.

(b) the Assembly established by the Northern Ireland Assembly Act 1973, shall be construed as a reference to a resolution or decision of the Northern Ireland Assembly.

(3) A reference to laying a document before, or presenting it to—

(a) the Parliament of Northern Ireland or either House of that Parliament; or

(b) the Assembly established by the Northern Ireland Assembly Act 1973, shall be construed as a reference to laying it before, or presenting it to, the Northern Ireland Assembly.

(4) This paragraph applies to enactments and instruments passed or made before the appointed day.

#### Money

3.—(1) A reference to money provided by the Parliament of Northern Ireland shall be construed as a reference to money appropriated by Measure.

(2) A reference to payment into or out of the Exchequer of Northern Ireland shall be construed as a reference to payment into or out of the Consolidated Fund of Northern Ireland.

1973 c.36.

(3) This paragraph applies to enactments and instruments passed or made before the coming into force of Part II of the Northern Ireland Constitution Act 1973.

#### Office-holders and Ministers

4.—(1) A reference to—

(a) the Governor of Northern Ireland;

(b) the Governor of Northern Ireland in Council; or

(c) the making of an Order in Council by the Governor of Northern Ireland,

shall be construed as a reference to the Secretary of State or, as the case may be, the making of an order by the Secretary of State.

(2) This paragraph applies to enactments and instruments passed or made before the coming into force of Part II of the Northern Ireland Constitution Act 1973.

5.—(1) A reference to—

(a) the Prime Minister of Northern Ireland; or

(b) the chief executive member,

shall be construed as a reference to the First Minister and deputy First Minister acting jointly.

(2) A reference to—

(a) the Executive Committee for Northern Ireland; or

(b) the Northern Ireland Executive,

shall be construed as a reference to the First Minister, the deputy First Minister and the Northern Ireland Ministers.

(3) This paragraph applies to enactments and instruments passed or made before the appointed day.

6.—(1) A reference to a Minister of Northern Ireland by a title corresponding to that of a Ministry of Northern Ireland shall be construed as a reference to the Northern Ireland Minister in charge of the Northern Ireland department bearing the name of that Ministry immediately before the coming into force of Part II of the Northern Ireland Constitution Act 1973.

(2) A reference to a specified Ministry of Northern Ireland shall be construed as a reference to the relevant Northern Ireland department.

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(3) A reference to an unspecified Ministry shall be construed as a reference to a Northern Ireland department.

- 5 (4) This paragraph applies to enactments and instruments passed or made before the coming into force of Part II of the Northern Ireland Constitution Act 1973 c.36.

7.—(1) A reference to—

- 10 (a) an unspecified Minister of Northern Ireland; or  
(b) the head of a Northern Ireland department,  
shall be construed as a reference to a Northern Ireland Minister.

(2) A reference to the head of a specified Northern Ireland department shall be construed as a reference to the Northern Ireland Minister in charge of that department.

- 15 (3) In this paragraph "Northern Ireland Minister" includes the First Minister and the deputy First Minister.

(4) This paragraph applies to enactments and instruments passed or made before the appointed day.

#### *Courts*

- 20 8.—(1) A reference to the Supreme Court of Judicature in Ireland shall be construed as a reference to the Supreme Court of Judicature in Northern Ireland.

(2) A reference to the High Court of Justice in Ireland shall be construed as a reference to the High Court of Justice in Northern Ireland.

- 25 (3) A reference to the Court of Appeal in Ireland shall be construed as a reference to the Court of Appeal in Northern Ireland.

(4) This paragraph applies to enactments and instruments passed or made before the passing of the Government of Ireland Act 1920.

1920 c.67.

#### *Equal opportunity bodies*

- 30 9.—(1) A reference to—

- (a) the Fair Employment Commission for Northern Ireland;  
(b) the Equal Opportunities Commission for Northern Ireland;  
(c) the Commission for Racial Equality for Northern Ireland; or  
(d) the Northern Ireland Disability Council,

- 35 shall be construed as a reference to the Northern Ireland Equality Commission.

(2) This paragraph applies to enactments and instruments passed or made before section 57 comes into force.

### SCHEDULE 12

Section 76.

#### MINOR AND CONSEQUENTIAL AMENDMENTS [1218]

40

#### *General*

1. So far as necessary in consequence of section 57, a reference in any enactment to—

- (a) the Fair Employment Commission for Northern Ireland;  
(b) the Equal Opportunities Commission for Northern Ireland;

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(c) the Commission for Racial Equality for Northern Ireland; or  
 (d) the Northern Ireland Disability Council,  
 shall be construed as a reference to the Northern Ireland Equality Commission.

2. In enactments passed or made before the passing of the 1920 Act—

(a) references to the Supreme Court of Judicature in Ireland shall be construed as references to the Supreme Court of Judicature in Northern Ireland; 5

(b) references to the High Court of Justice in Ireland shall be construed as references to the High Court of Justice in Northern Ireland; and

(c) references to the Court of Appeal in Ireland shall be construed as references to the Court of Appeal in Northern Ireland. 10

3. In enactments passed or made before the date on which Part V comes into force, except where the context otherwise requires—

(a) a reference to money provided by the Parliament of Northern Ireland shall be construed as a reference to money appropriated by Measure; and 15

(b) a reference to payment into or out of the Exchequer of Northern Ireland shall be construed as a reference to payment into or out of the Consolidated Fund of Northern Ireland.

*The Superannuation Act 1972 (c.11)*

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4. In Schedule 1 to the Superannuation Act 1972 (kinds of employment to which a scheme may apply) at the end of the list of Royal Commissions and other Commissions insert—

“Northern Ireland Equality Commission.

Northern Ireland Human Rights Commission”.

25

*Fair Employment (Northern Ireland) Act 1976 (c.25)*

5.—(1) The Fair Employment (Northern Ireland) Act 1976 shall be amended as follows.

(2) In section 1 (the Fair Employment Commission for Northern Ireland)—

(a) for the words in subsection (1) before paragraph (a) substitute “The Commission shall have the duties of”; and 30

(b) subsection (2) shall cease to have effect.

(3) In section 2 (educational functions) after “discharging its duties” insert “under section 1”.

(4) In section 57(1) (interpretation), in the definition of “the Commission” for “the Fair Employment Commission for Northern Ireland” substitute “the Northern Ireland Equality Commission”. 35

(4) Schedule 1 (the Fair Employment Commission for Northern Ireland) shall cease to have effect.

*Sex Discrimination (Northern Ireland) Order 1976 (S.I. 1976/1042 (N.I.15))*

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6.—(1) The Sex Discrimination (Northern Ireland) Order 1976 shall be amended as follows.

(2) In article 2(2) (interpretation), in the definition of “the Commission” for “the Equal Opportunities Commission for Northern Ireland” substitute “the Northern Ireland Equality Commission”. 45

(3) In article 54(1) (establishment of Equal Opportunities Commission for Northern Ireland)—

(a) in paragraph (1) for the words before paragraph (a) substitute “The Commission shall have the following duties”; and

(b) paragraphs (2) to (4) shall cease to have effect.

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(4) Schedule 3 (the Equal Opportunities Commission for Northern Ireland) shall cease to have effect.

*Official Secrets Act 1989 (c.6)*

5 7.—(1) Section 12 of the Official Secrets Act 1989 (interpretation) shall be amended as follows.

(2) Subsection (1)(b) shall cease to have effect.

(3) After subsection (3) insert—

10 “(4) This Act shall apply to the following as it applies to persons falling within the definition of Crown servant—

(a) the First Minister and deputy First Minister in Northern Ireland; and

(b) Northern Ireland Ministers.”

*Fair Employment (Northern Ireland) Act 1989 (c.32)*

15 8.—(1) The Fair Employment (Northern Ireland) Act 1976 shall be amended as follows.

(2) The following shall be substituted for section 1—

“The Northern 1. In this Act “the Commission” means the Northern Ireland  
Ireland Equality Equality Commission”.  
Commission.

20 (3) In Schedule 1 (minor and consequential amendments), paragraphs 5 and 6 and 22 to 28 shall cease to have effect.

*Disability Discrimination Act 1995 (c.50)*

9.—(1) The Disability Discrimination Act 1995 shall be amended as follows.

(2) For section 70(6) (extent) substitute—

25 “(6) This Act extends to Northern Ireland; but in its application to Northern Ireland any reference to the National Disability Council shall be construed as a reference to the Northern Ireland Equality Commission.”.

(3) In schedule 8 for “the Council” and “the Northern Ireland Disability Council” substitute “the Northern Ireland Equality Commission”.

30 *Race Relations (Northern Ireland) Order 1997 (S.I. 1997/[] (N.I.[]))*

10.—(1) The Race Relations (Northern Ireland) Order 1997 shall be amended as follows.

S.I. 1997/[] (N.I.  
[]).

35 (2) In article 2(2) (interpretation), in the definition of “the Commission” for “the Commission for Racial Equality for Northern Ireland” substitute “the Northern Ireland Equality Commission”.

(3) Article 42(1) and (3) to (5) and Schedule 1 (establishment of Commission for Racial Equality for Northern Ireland) shall cease to have effect.

Section 77(1).

## SCHEDULE 13

## TRANSITIONAL PROVISIONS AND SAVINGS [J219]

*Elections*

1. Any order made under section 2(5) of the Northern Ireland (Elections) Act 1998 before the appointed day, shall on and after that day have effect, with any necessary modifications, as if it had been made under section 31(4).

5

*Vacancies*

2. Any order made under section 3 of the Northern Ireland (Elections) Act 1998 before the appointed day, shall on and after that day have effect, with any necessary modifications, as if it had been made under section 32.

10

*Disqualification*

3. A person elected on 25th June 1998 shall not be disqualified from membership of the Assembly by virtue of section 33 if he was not disqualified from such membership under section 4 of the Northern Ireland (Elections) Act 1998.

15

*Discrimination in legislation*

1973 c.36.

4. Nothing in this Act shall affect the operation of section 17 of the Northern Ireland Constitution Act 1973 (read with section 23 of that Act) in relation to—

1973 c.17.

(a) Measures of the Northern Ireland Assembly established by section 1 of Northern Ireland Assembly Act 1973;

20

(b) Acts of the Parliament of Northern Ireland; and

(c) relevant subordinate instruments (within the meaning of section 17 of the Northern Ireland Constitution Act 1973) made before the appointed day.

Section 77(2).

## SCHEDULE 14

25

## REPEALS [J220]

Chapter	Short title	Extent of repeal	
10 & 11 Geo 5 c.67.	Government of Ireland Act 1920.	The whole Act.	
1973 c.36.	Northern Ireland Constitution Act 1973.	Sections 1 to 9. Sections 11 to 32. Sections 37 to 39. Schedules 1 to 4.	30
1976 c.25.	Fair Employment (Northern Ireland) Act 1976.	Section 1(2). Schedule 1.	35
1986 c.39.	Patents, Designs and Marks Act 1986.	Section 2(2).	
1986 c.50.	Social Security Act 1986.	In Schedule 9, paragraph 6.	
1986 c.53.	Building Societies Act 1986.	Section 122(2).	40
1986 c.60.	Financial Services Act 1986.	Section 209(2).	
1987 c.22.	Banking Act 1987.	Section 109(2).	

Chapter	Short title	Extent of repeal
1987 c.43.	Consumer Protection Act 1987.	Section 49(2).
1989 c.40.	Companies Act 1989.	In section 213(7), the words from "Subject to any Order" to the end.
5 1990 c.37.	Human Fertilisation and Embryology Act 1990.	Section 48(2).
1990 c.43.	Environmental Protection Act 1990.	Section 3(8).
10 1991 c.48.	Child Support Act 1991.	Section 153(5).
1992 c.40.	Friendly Societies Act 1992.	Section 23(4).
1993 c.36.	Criminal Justice Act 1993.	Section 124(2).
15 1993 c.39.	National Lottery etc. Act 1993.	Section 79(11).
1993 c.48.	Pension Schemes Act 1993.	Section 63(2).
20 1998 c.12.	Northern Ireland (Elections) Act 1998.	Section 187.
		The whole Act.