

Northern Ireland Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

The Bill makes provision for the establishment of a Northern Ireland Assembly and for the creation of associated bodies as envisaged in the multi-party agreement in Belfast on 10th April 1998 and set out in Command Paper 3883.

Part I deals with the status of Northern Ireland and provides for the initial and later devolution of functions. Part II provides for the exercise of the legislative functions by the Assembly. Part III allows for the exercise of executive functions. Part IV concerns elections to and proceedings of the Assembly. Part V makes provision for financing the Administration including provision for audit and accounting. Part VI provides for the establishment of the Northern Ireland Human Rights Commission and the Equality Commission of Northern Ireland, and other duties of and restrictions on public bodies. Part VII and Part VIII provide for various miscellaneous and supplementary matters.

PART I

PRELIMINARY

Clause 1 deals with the status of Northern Ireland, and gives effect to the principle of consent to change in it.

Clause 2 repeals the Government of Ireland Act 1920 and deals with the effect of the Bill on previous enactments.

Clause 3 provides for initial devolution of power, when sufficient progress has been made in implementing the Belfast Agreement.

Clause 4 provides for the definition of excepted, reserved and transferred powers and for Orders in Council to move matters between the reserved and transferred fields; and defines certain terms, including "cross-community support".

PART II

LEGISLATIVE POWERS

Clause 5 provides for the Northern Ireland Assembly to make laws to be known as Acts.

Clause 6 sets out the Assembly's legislative competence.

Clause 7 requires the consent of the Secretary of State to a Bill of the Assembly containing provision which deals with certain excepted matters or with reserved matters.

Clause 8 requires a Minister proposing a Bill to make a statement to the effect that the Bill is within the legislative competence of the Assembly.

Clause 9 requires that the Presiding Officer shall not allow a Bill to proceed if he decides it is outside legislative competence, and requires him in certain cases to refer to the Secretary of State on Bills containing provision to which consent is needed.

Clause 10 provides that the question as to whether a Bill would be within the legislative competence of the Assembly may be referred to the Judicial Committee of the Privy Council by the Attorney-General for Northern Ireland.

Clause 11 makes provision for the stages of Bills, including the possibility of reference to a committee to consider human rights issues.

Clause 12 provides for the submission of a Bill for Royal Assent by the Secretary of State and for it not to be submitted in certain circumstances.

Clause 13 provides for Parliamentary control of certain Bills containing a provision dealing with certain excepted matters or with reserved matters.

PART III

EXECUTIVE AUTHORITIES

Clause 14 provides for the election of a First Minister and a deputy First Minister and sets out the conditions for the joint tenure of their offices.

Clause 15 allows the First and deputy First Ministers to determine the number and nature of Ministerial offices and sets out the formula to determine the parties to which they are allocated. It also sets out the tenure of office for a Northern Ireland Minister.

Clause 16 makes provision for the Executive Committee of the Assembly to discharge functions in line with the Agreement.

Clause 17 continues the existing Northern Ireland departments for the purposes of the Bill.

Clause 18 makes provision for the exercise by Ministers of prerogative and other executive functions.

Clause 19 prohibits Ministers and Northern Ireland departments from doing anything which is incompatible with European Community law or with the rights in the European Convention on Human Rights which are given effect to in the law in the United Kingdom.

Clause 20 empowers the Secretary of State in certain circumstances to prevent or require action by a Minister or Northern Ireland department, or to revoke subordinate legislation.

Clause 21 allows a Northern Ireland department to act as an agent of a UK department or vice versa.

Clause 22 provides for the establishment of committees of the Assembly and sets out the formula for allocating the positions of chairman and deputy chairman amongst other parties.

Clause 23 sets out the procedure by which a Minister or party can be excluded from office.

PART IV

THE NORTHERN IRELAND ASSEMBLY

Clause 24 makes provision for the dissolution of the Assembly, the timing of ordinary general elections and the circumstances in which extraordinary general elections are to be held.

Clause 25 states that 6 members shall be returned from each of the Westminster Parliamentary constituencies.

Clause 25 states that the electoral system for elections to the Assembly will be by single transferable vote and provides for the Secretary of State to make an order in respect of the franchise.

Clause 27 allows for vacancies in the Assembly to be filled by way of substitutes, by-election or any other way that the Secretary of State sees fit.

Clauses 28 to 30 provide the grounds of disqualification for being a member of the Assembly and the exception from, consequences of, and legal proceedings as to, disqualification.

Clause 31 provides for the election of a Presiding Officer and, subject to standing orders, deputies from the membership of the Assembly.

Clause 32 allows for the establishment, membership and functions of a body corporate to be known as the Northern Ireland Assembly Commission to serve the Assembly.

Clause 33 states that the proceedings of the Assembly shall be regulated by standing orders which shall not be made without cross-community support.

Clause 34 provides for a petition of concern which if supported by 30 members of the Assembly requires that an issue be subject to a vote requiring cross-community support.

Clause 35 requires the standing orders to provide for the registration and declaration of interests of Assembly members and for the prohibition of Assembly members from promoting any matter in return for payment. It provides that any member of the Assembly who contravenes the provisions of the standing order under the clause commits an offence.

Clauses 36 and 37 enable the Assembly to require certain persons to attend to give evidence, or to produce documents, relating to specified matters. Failure to comply is an offence. Persons giving evidence in proceedings of the Assembly may be required to take an oath. A refusal to do so when required is an offence.

Clauses 38 and 39 provide for the payment by the Assembly of salaries, pensions, gratuities and allowances in respect of members of the

Assembly. The salary of an Assembly Member who is also a Member of the UK Parliament or a Member of the European Parliament will be abated.

Clause 40 provides for the use of Letters Patent under the Northern Ireland Seal for the signification of Royal Assent to a Bill.

Clause 41 makes provision about defamation. Statements made in proceedings of the Assembly and statements published under the Assembly's authority are to be absolutely privileged.

Clause 42 requires a Member of the Assembly who wants to resign to notify the Presiding Officer in writing of his intent to do so.

Clause 43 allows for the prorogation of the Assembly by means of Orders in Council.

PART V

FINANCIAL PROVISIONS

Clause 44 allows for the continued existence of the Northern Ireland Consolidated Fund.

Clause 45 provides for a sum equivalent to that paid in taxes by Northern Ireland to be paid out of the United Kingdom Consolidated Fund into the Northern Ireland Consolidated Fund.

Clause 46 allows for the Secretary of State to make payments into the Northern Ireland Consolidated Fund.

Clause 47 provides for the appropriation of sums out of the Northern Ireland Consolidated Fund in certain cases where an appropriation Act has not been passed.

Clause 48 allows the Secretary of State to make advances from the National Loan Fund to the Minister of Finance and Personnel to meet short term needs of the Northern Ireland Consolidated Fund.

Clause 49 requires that full accounts are prepared in respect of the provisions within *clause 48*.

Clause 50 sets out the method by which the Assembly shall approve expenditure.

Clause 51 provides for draft budgets to be agreed by the Executive Committee and approved by the Assembly.

Clause 52 provides for the appointment of the Comptroller and Auditor-General and requires that he audit the accounts for the Northern Ireland Consolidated Fund.

Clause 53 enables the Treasury to obtain financial information from the Assembly.

PART VI

HUMAN RIGHTS AND EQUAL OPPORTUNITIES

Clauses 54 and 55 set up the Northern Ireland Human Rights Commission and set out its functions.

Clause 56 provides for the Commission to grant assistance to individuals.

Clause 57 prevents persons other than victims from bringing certain actions.

Clause 58 provides for the dissolution of the Standing Advisory Human Rights Commission.

Clauses 59 and 60 set up the Equality Commission for Northern Ireland and set out its principal functions.

Clause 61 imposes a statutory duty on public authorities in respect of equality of opportunity.

Clause 62 provides that discrimination by public authorities on grounds of religious belief or political opinion is unlawful.

Clause 63 prevents organisations from requiring an oath or declaration from an individual.

Clause 64 lifts certain restrictions on investigations into maladministration where discrimination or unlawful oaths are in issue.

PART VII

MISCELLANEOUS AND GENERAL

Clause 65 provides for the consultative Civic Forum as envisaged in paragraph 34 of Strand One of the Belfast Agreement.

Clause 66 provides for the First and Deputy First Ministers to ensure the required participation in meetings of the North-South Ministerial Council and the British-Irish Council.

Clause 67 provides for the First and deputy First Ministers to ensure the required attendance at certain meetings of the British-Irish Intergovernmental Conference

Clause 68 provides for the Secretary of State to confer legal capacity and functions on implementation bodies in pursuance of paragraph 9(ii) of Strand Two of the Belfast Agreement.

Clauses 69 to 71 make provision for decisions by the courts on certain "devolution issues" under the Bill.

Clauses 72 and 73 provide for subordinate legislation for certain purposes, including purposes consequential on the Bill.

Clause 74 deals with property held or used for the purposes of the old Northern Ireland Assembly.

Clause 75 provides for the continued payment of land annuities into the Consolidated Fund of Northern Ireland.

PART VIII

SUPPLEMENTAL

Clauses 76 to 82 deal with the saving of existing enactments, orders and regulations, interpretation, consequential amendments, transitional provisions and the short title and commencement of the Bill.

SCHEDULES

Schedule 1 contains provisions relating to the holding of cross border polls as provided for under clause 1(1).

Schedule 2 lists excepted matters for the purpose of the Bill (clause 4(1)).

Schedule 3 lists reserved matters for the purposes of the Bill (clause 4(1)).

Schedule 4 lists those enactments protected under clause 6(2) from modification by Act of the Assembly.

Schedule 5 sets out the Pledge of Office, as it appears in the Belfast Agreement.

Schedule 6 contains detailed provisions for the Northern Ireland Assembly Commission as provided for under clause 32(10).

Schedule 7 sets out matters that must or may be covered by Assembly standing orders as provided for under clause 33(3).

Schedule 8 contains detailed provisions concerning the Northern Ireland Human Rights Commission (clause 54(4)).

Schedule 9 details the duties of the Equality Commission for Northern Ireland (clause 59(5)).

Schedule 10 provides for the enforcement by the Equality Commission of Northern Ireland of duties imposed on public bodies (clause 61(4)).

Schedule 11 makes detailed provision about devolution issues (clause 69).

Schedule 12 provides for construction of references in existing laws to institutions, procedures etc. now superseded (clause 76(5)).

Schedule 13 details minor and consequential amendments to other Acts arising as a result of the Bill (clause 80).

Schedule 14 details the transitional provisions and savings associated with the Bill (clause 81(1)).

Schedule 15 sets out provisions repealed as a result of the Bill (clause 81(1)).

Financial effects of the Bill

NORTHERN IRELAND ASSEMBLY

The amount required in the year ending 31st March 1999 for expenditure of the New Northern Ireland Assembly is estimated at £9.466 million. Figures of £14 million have been estimated for each year of the next survey period.

EXECUTIVE SUPPORT FOR FIRST AND DEPUTY FIRST MINISTERS

The amount required for directly supporting Ministers up until 31st March 1999 has been estimated at £244,000. Thereafter figures of £420,000, £435,000 and £450,000 have been estimated to cover the next 3 financial years respectively.

NORTH-SOUTH MINISTERIAL COUNCIL

The amount required to support the North-South Ministerial Council up until 31st March 1999 has been estimated at £237,000. Thereafter figures of £900,000, £935,000 and £970,000 have been estimated to cover the next 3 financial years respectively.

CONSULTATIVE CIVIC FORUM

The consultative Civic Forum should be established from 1st February 1999 and a figure of £60,000 has been estimated to cover expenditure up to 31st March of next year. Thereafter figures of £370,000, £385,000 and £400,000 have been estimated to cover the next 3 years respectively.

THE NORTHERN IRELAND HUMAN RIGHTS AND EQUALITY COMMISSIONS

It is estimated that the costs will be in the region of £750,000.

Effect of the Bill on public service manpower

The provisional estimate is that some 140 staff will be needed to serve the Assembly. These staff will not be civil servants. They will be employed directly by the Northern Ireland Assembly Commission who will determine the exact number of staff required.

It is not anticipated that a significant number of jobs will be created within the existing Northern Ireland departments as a result of the Bill.

Small secretariats will be established to service the North-South Ministerial Council and the British-Irish Intergovernmental Conference respectively.

The Northern Ireland Human Rights Commission and the Equality Commission for Northern Ireland have body corporate status and will recruit staff directly.