

DRAFT

DRAFT DEPARTMENTS (NI) ORDER 1999

PART 1

DRAFT ORDER IN COUNCIL

BACKGROUND AND SCOPE

DEPARTMENTS (NORTHERN IRELAND) ORDER 1999

EXPLANATORY DOCUMENT

4. In particular, it would provide for an Office of the First Minister and deputy First Minister and 10 other Northern Ireland departments, namely -

- The Department of Agriculture and Rural Development, DARD
- The Department of Culture, Arts and Leisure, DCAL
- The Department of Education, DE
- The Department of Enterprise, Trade and Investment, DETI
- The Department of Environment, DE
- The Department of Finance and Personnel, DFP
- The Department of Health, Social Services and Public Safety, DHSS
- The Department of Higher and Further Education, Training and Employment, DHE

CENTRAL SECRETARIAT

Department for Regional Development, DRD
Department for Social Development, DSD

DRAFT DEPARTMENTS (NI) ORDER 1999

PART I

BACKGROUND AND SCOPE

1. The proposed draft Order would consolidate, with amendment, the law dealing with the administration of public services in Northern Ireland by Government Departments. It would also provide for the assignment and transfer of functions to and among Northern Ireland departments.
2. The Ministries of Northern Ireland Act (Northern Ireland) 1921 ("the 1921 Act"), which forms the basis of the existing law concerning the creation and naming of Northern Ireland departments, has been heavily amended since its enactment. This Order would consolidate legislation on departments and the administration of their functions in a single enactment. In doing so it would also introduce changes to the organisation and structure of Northern Ireland departments as agreed by the Northern Ireland shadow Assembly on [].
3. In particular, it would provide for an Office of the First Minister and deputy First Minister and 10 other Northern Ireland departments, namely -
 - The Department of Agriculture and Rural Development, DARD
 - The Department of Culture, Arts and Leisure, DCAL
 - The Department of Education, DE
 - The Department of Enterprise, Trade and Investment, DETI
 - The Department of Environment, DE
 - The Department of Finance and Personnel, DFP
 - The Department of Health, Social Services and Public Safety, DHSSPS
 - The Department of Higher and Further Education, Training and Employment, DHF&ETE
 - The Department for Regional Development, DRD
 - The Department for Social Development, DSD

4. The Order would not only provide for the restructuring of Departments but would re-enact the requirement that each Department be subject to the direction and control of the Minister of that Department. It would also confer the powers (currently in section 4 of the Ministries Act (Northern Ireland) 1944) to assign or transfer functions to and among Departments, on the First Minister and deputy First Minister acting jointly.
5. Other significant provisions in the draft Order include the re-enactment of provisions relating to the exercise of functions by Departments, the status of Departments, the use of the official seal and the requirement for official documents issued by Departments to be received in evidence as proof of acts of those Departments.

SUMMARY OF THE KEY PROVISIONS

6. The Proposal would -
 - (a) provide for an Office of the First Minister and deputy First Minister;
 - (b) provide for 10 other Northern Ireland Departments;
 - (c) provide for the functions of a Department to be exercised subject to the direction and control of the Departmental Minister;
 - (d) provide for functions to be assigned to or transferred between Departments by order made by the First Minister and deputy First Minister acting jointly.

PART II

THE PROVISIONS OF THE ORDER

7. The provisions of the Order are explained below.

7.1 **Articles 1 and 2** are introductory and deal with title, commencement and interpretation of the Order.

Article 1 provides that, except for Article 8, the Order would come into force on such date as the Secretary of State shall appoint. This would be a date preceding the day on which powers are devolved to the Northern Ireland Assembly by the Northern Ireland Act 1998 and is necessary to ensure that structures agreed by the shadow Assembly are in place on commencement of devolution. Article 8, which enables the First Minister and deputy First Minister to transfer or assign functions to and among Departments, would come into force immediately after the day on which the Northern Ireland Act 1998 becomes operative.

Article 2 assigns meanings to certain expressions used in the Order. In particular, it provides a definition for references to 'a member of the Northern Ireland senior civil service'.

7.2 **Article 3, together with Schedule 1**, makes provision for the departmental structures agreed by the shadow Assembly on [] and, in particular, establishes an Office of the First Minister and deputy First Minister and a total of 10 other NI Departments.

The Departments would comprise:

3 existing Departments -

- The Department of Education,
- The Department of the Environment,
- The Department of Finance and Personnel;

3 Departments to be re-named -

- The Department of Agriculture would become the Department of Agriculture and Rural Development,
- The Department of Health and Social Services would become the Department of Health, Social Services and Public Safety,
- The Department of Economic Development would become the Department of Enterprise, Trade and Investment;

5 new Departments to be created -

- The Department of Culture, Arts and Leisure,
- The Department of Higher and Further Education, Training and Employment,
- The Department for Regional Development,
- The Department for Social Development and
- The Office of the First Minister and deputy First Minister. *Counted as Dept.*

Article 3(7) would remove the words "for Northern Ireland" where these form part of the title of existing Departments. In effect, this would remove these words from the titles of the Departments of Education and of the Environment. The 'Department of Finance and Personnel' remains unaffected as "for Northern Ireland" does not form part of the title of that Department. This removes the inconsistency of some departmental titles carrying these words while others do not.

- 7.3 **Article 4** carries forward the provisions of section 1(3) and 2(3) and (4) of "the 1921 Act". It provides for the functions of a Department to be exercised subject to the direction and control of its Minister and authorises the Minister to distribute the business of a Department among the officers of that Department. It also provides for the Minister or a senior officer of the Department to exercise the functions of the Department and in doing so to adopt and use the name and official seal of the Department. In addition, this Article makes it clear that nothing in the Order would affect or overrule any statutory provision or

rule of law which authorises or requires the functions of a Department to be exercised in a particular way or by a particular person.

- 7.4 Article 5** carries forward the existing law which gives Departments the status of body corporate and gives them the capacity to acquire and hold land for the exercise of their functions. This provision is derived from section 2(1) of "the 1921 Act". The Article also provides for Departmental expenses to be defrayed out of moneys appropriated by Act of the Assembly subject to the extent determined by the Department of Finance and Personnel. This provision is derived from section 4(2) of the Administrative Provisions Act (Northern Ireland) 1925.
- 7.5 Article 6** provides for each Department to have an official seal, the application of which is to be authenticated by the signature of the Minister or a senior officer of that Department. This provision is derived from section 2(2) of "the 1921 Act".
- 7.6 Article 7** relates to documentary evidence and provides for documents issued under a Departmental seal or signed by Ministers or senior officers of a Department to be accepted in evidence without further proof. The Article also applies the Documentary Evidence Acts of 1868 and 1882 to the Northern Ireland Departments. This provision is derived from section 3 of "the 1921 Act".
- 7.7 Article 8** gives power to the First Minister and deputy First Minister, acting jointly, to assign functions to any Department and to transfer functions between Departments. This power would be exercised by order and would be subject to affirmative resolution procedure. This provision is derived from section 4 of the Ministries Act (Northern Ireland) 1944.

- 7.8 **Article 9** introduces **Schedules 2 and 3** which provide for minor consequential amendments and repeals respectively.
- 7.9 **Schedule 1** lists the Northern Ireland Departments which will be in place by the date of devolution.
- 7.10 **Schedule 2** substitutes references to this Order for references to the Ministries Act (Northern Ireland) 1921 in several existing enactments. It also amends the Ombudsman's (Northern Ireland) Order 1996 to bring all new Departments within the jurisdiction of the Ombudsman.
- 7.11 **Schedule 3** repeals the existing law where it is re-stated by this Order. It also repeals certain provisions which are spent and no longer of any practical use, e.g. earlier enactments establishing or abolishing former Departments.

PART III

IMPACT ON BUSINESS

8. A Regulatory Impact Assessment is not considered necessary as the Order will not impact on business.