

THE NORTHERN IRELAND (MODIFICATION OF ENACTMENTS
- No 1) ORDER 1999

DRAFT ORDER IN COUNCIL

BACKGROUND AND SCOPE

**THE NORTHERN IRELAND
(MODIFICATION OF ENACTMENTS - No 1)
ORDER 1999**

EXPLANATORY DOCUMENT

SUMMARY OF THE KEY PROVISIONS

3. The draft Order would -
- (a) modify the enactments listed in Schedule 1;
 - (b) make a savings provision for statutory rules (SRs), made before the date of revocation, but which are capable of being annulled, being approved, either by the Assembly or at a meeting, during the statutory period following that date.

**CENTRAL SECRETARIAT
FEBRUARY 1999**

THE NORTHERN IRELAND (MODIFICATION OF ENACTMENTS - No 1) ORDER 1999

PART I

BACKGROUND AND SCOPE

1. The proposed draft Order would amend or repeal certain statutory provisions and make other provisions in consequence of, or for giving full effect to, the Northern Ireland Act 1998.
2. The Northern Ireland Act 1998 makes new provision for the government of Northern Ireland for the purpose of implementing the agreement reached at the multi-party talks on Northern Ireland set out in Command Paper 3883. As a consequence of the provisions of that Act the new arrangements need to be inserted in a number of existing enactments to implement, in particular, the authority of the new Northern Ireland Assembly and its Ministers and Departments in relation to those enactments. For the most part these are textual amendments to update references in enactments to, for example, the Parliament of Northern Ireland and the Northern Ireland Executive.

SUMMARY OF THE KEY PROVISIONS

3. The draft Order would -
 - (a) modify the enactments listed in Schedule 1;
 - (b) make a savings provision for statutory rules (SRs), made before the date of devolution, but which are capable of being annulled, revoked or not being approved, either by the Assembly or at Westminster, during the statutory period falling after that date;

- (c) apply the provisions of the Documentary Evidence Act 1868 to official documents issued by the First Minister and deputy First Minister.

PART II

THE PROVISIONS OF THE ORDER

- 4. The provisions of the Order are explained below.
 - 4.1 **Article 1** is introductory and deals with the title, commencement and extent of the Order and provides for the Order to come into force on the day appointed for devolution. It applies the provisions of the Order, to Northern Ireland only - except as it relates to certain provisions of UK enactments and to a provision contained in a Scottish enactment.
 - 4.2 **Article 2** gives effect to the amendments of various enactments specified in Schedule 1 to the Order and to repeals to the extent set out in Schedule 2.
 - 4.3 **Article 3** concerns statutory rules (SRs) in passage when devolution comes into force. It provides a savings provision for SRs, made before devolution, but which are capable (within a specified statutory period), of being annulled, revoked or not being approved either by the Assembly or at Westminster, during any part of the statutory period which falls after devolution. It is derived from Schedule 1, paragraph 3 of the Northern Ireland Act 1974.

Article 3(1) provides that no statutory rule approved under direct rule by the Secretary of State before devolution should be capable of annulment by the new Assembly after devolution. Instead, the

Assembly could (if it so wishes) revoke the rule in question by a new rule.

Similarly, where an SR is subject to a procedure (sometimes known as the confirmatory procedure) whereby an enactment imposes a condition making its continued operation subject to approval of the Assembly (within a statutory period), **Article 3(2)** provides that where the SR was made before the date of devolution such a condition would not apply.

Article 3(3) concerns the Westminster position regarding SRs which were subject to negative resolution and laid before Parliament in the weeks before devolution. Once again there is the possibility that the SR could still be subject to annulment at Westminster after devolution (because the statutory period at Westminster had not expired). It would not be appropriate for Parliament, in this instance, to debate a SR on a transferred matter after devolution. Article 3(3) would ensure that the SR ceased to be subject to annulment at Westminster on devolution. ✓

- 4.4 Article 4** applies the provisions of the Documentary Evidence Acts of 1868 and 1882 to documents issued under the authority of the First Minister and deputy First Minister.

The 1868 Act, sets out the mode of proving certain documents (in particular, proclamations, orders or regulations) in legal proceedings and makes it an offence to forge or knowingly to tender such a forged document in evidence. The 1882 Act extended these provisions to all official documents printed under the superintendence of Her Majesty's Stationary Office. Accordingly, by virtue of this Article, an official document authorised by the First Minister and deputy First Minister, acting jointly, could be admissible in court proceedings as conclusive evidence of such a document.

4.5 Article 5 This Article makes a transitional and saving provision. Its purpose is to ensure that any subordinate legislation already made by, or any other thing done under, the enactments which would be amended by Schedule 1 to this Order will continue to have effect on devolution. It also takes account of the provisions of section 95(5) of, and Schedule 12 to, the Northern Ireland Act 1998 and makes it clear that the amendments under Schedule 1 to this Order do not prejudice the operation of those provisions.

(Section 95(5) of the 1998 Act gives effect to Schedule 12 (which provides for the construction of certain references in existing laws) and in doing so makes it subject to any provision made by or under the 1998 Act or any Act of the Assembly).

4.6 Schedule 1. The amendments listed in this Schedule are consequential on the Northern Ireland Act 1998 and on devolution of powers to the Northern Ireland Assembly.

For the most part these amendments would substitute references:

- to the former Parliament of Northern Ireland and to the former Northern Ireland Executive with references to the new Northern Ireland Assembly;
- to the chief executive member of the former Northern Ireland Executive with references to the First Minister and deputy First Minister acting jointly; and
- to the Secretary of State, (including references to the Governor and Lord Lieutenant), with references to the Northern Ireland Minister or Northern Ireland department, as appropriate, e.g. in relation to transferred matters.

For the purposes of background information.

- (1) The ***Irish Free State (Consequential Provisions) Act 1922***, Schedule 1, paragraph 1: (appointment of a Governor of Northern Ireland), provided for earlier references to the Lord Lieutenant in any existing enactment to be construed as a reference to the Governor of Northern Ireland.
- (2) Subsequently, ***the Northern Ireland Constitution Act 1973*** (Schedule 5 paragraph 4) made provision for any reference to the Governor to be construed as a reference to the Secretary of State.
- (3) ***The Northern Ireland Act 1998*** (Schedule 12 paragraph. 8) carries forward reference to the Governor to be construed as a reference to the Secretary of State.

The replacement of the words "Governor" and "Lord Lieutenant" by this Order would now update these terms in the relevant enactments to either the First Minister/deputy First Minister, the relevant Assembly Minister or the Department concerned. The proposed allocation of powers has been taken on the basis of importance, scope and nature of the subject matter. For example, appointments to the Planning and Water Appeals Commissions would transfer to the First/deputy First Ministers. Routine provisions (fees, registers of marriages, deaths etc, fairs and pedlars) would transfer to the department concerned. A range of other powers, would be more appropriate for Assembly Ministers (approval to bishops to licence churches for marriages, certain functions relating to public records).

5. SCHEDULE 1

5.1 Paragraph 1 would amend *The Marriages (Ireland) Act 1844*

This Act makes provision for solemnizing and registration of marriages. Section 7 permits each Presbyterian presbytery in Ireland, ***with the approval of the 'lord lieutenant'***, to appoint ministers to certify meeting houses,

section 56 requires the registrar to send to the '**lord lieutenant**' an annual abstract of registered marriages for laying before Parliament and section 67 requires certified copies of the registers of marriages to be kept in the General Registry Office in such order and manner as **the lord lieutenant** thinks fit.

The amendment proposed by this Order would remove the references to the 'lord lieutenant' and enable the functions under sections 56 and 67 to be carried out by the Department of Finance and Personnel and those in section 7 by the Minister of Finance and Personnel. It would also provide for the annual abstract to be laid before the Northern Ireland Assembly rather than Parliament.

5.2 Paragraph 2 would amend *The Registration of Marriages (Ireland) Act 1863*

Section 16 of this Act made further provision for abstracts of marriage registers to be transmitted to **the 'lord lieutenant'** and to be laid before Parliament. Again, this Order would remove the references to 'lord lieutenant' and provide for the function to be carried out by the Department of Finance and Personnel and for the annual abstract to be laid before the Northern Ireland Assembly rather than before Parliament.

5.3 Paragraph 3 would amend *The Fairs (Ireland) Act 1868*

Section 3 of this Act provides a power for **the Lord Lieutenant in Council** to alter the days and places for holding fairs.

This Order would transfer the power contained in section 3 from the Secretary of State to the Department of Agriculture and Rural Development .

5.4 Paragraph 4 would amend *The Burial (Ireland) Act 1868*

This Act permits funerals to take place in Church of Ireland burying grounds where the deceased was not a member of that church. ✓

Section 4 provides a power for *the Lord Lieutenant in Council* to exempt certain church yards from complying with the provisions of this Act. This Order would transfer the power from the Secretary of State to the Department of the Environment.

5.5 Paragraph 5 would amend *The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1870*

Section 34 of the 1870 Amendment Act provides for the licensing of churches for the celebration of marriages and confers this power on bishops subject the approval of the '*Lord lieutenant*'. This Order would update the reference to the 'Lord lieutenant' by substituting the 'Minister of Finance and Personnel'.

5.6 Paragraph 6 would amend *The Pedlars Act 1871*

Section 5 which concerns the grant of certificates to act as pedlar gives power to the '*Lord Lieutenant*' regarding expiry of such certificates. **Section 8** permits the '*Lord Lieutenant*' to direct that a register of such certificates be kept in each district. **Schedule 2** prescribes the form of a Pedlar's Certificate and in doing so makes reference to the *Lord Lieutenant of Ireland*. This Order would replace the references to the 'Lord Lieutenant' with references to the Department for Social Development.

5.7 Paragraph 7 would amend *The Public Records Act (NI) 1923*

This Act established a Public Records Office for Northern Ireland for the reception and preservation of certain public records.

Section 1(2)(a) applies the Act to records of an authority in Northern Ireland on which "the Parliament of Northern Ireland *has power* to make laws". This reference would be amended to read "had powers".

Section 7(1) & (3) concern printing and publication of records and give powers to the "*Governor of Northern Ireland*". The references to the Governor would be substituted with the Minister of Culture, Arts and Leisure.

Section 8 enables rules to be made on disposal of valueless documents. Section 8(4) sets out the rule making procedure including the laying of such rules before the Parliament of Northern Ireland. The amendment to this subsection would make such rules subject to negative resolution. Its effect would be to require the rules to be laid before the Northern Ireland Assembly.

Section 10 requires the Deputy Keeper of Records, under the direction of the Minister, to furnish an annual report to the "**Governor of Northern Ireland**". The amendment to this provision would require the annual report to be presented to the First Minister and deputy First Minister acting jointly and for the report to be laid before the Assembly.

5.8 Paragraph 8 would amend *The Petroleum (Consolidation) Act (NI) 1929*

This Act deals with licensing and safe keeping of petroleum.

Section 19 gives power to the Governor to make Orders in Council applying the Act to other substances and **section 21** requires regulations made under the Act to be laid before each House of Parliament.

This Order would amend section 19 to transfer the Governor powers to the Department of Enterprise, Trade and Investment by order. The amendment to section 21 would make all regulations made under the Act 'subject to negative resolution'. This would have the effect of requiring regulations under the 1929 Act to be laid before the Northern Ireland Assembly.

5.9 Paragraph 9 would make a number of amendments to *The Interpretation Act (Northern Ireland) 1954*

Section 1 (meaning of certain expressions used in this Act) would be amended, in particular, to extend the definition of "Act" to include an Act of the Assembly;

Sections 2(2), 12(2), 17(4), 27, 28, 29, 30(2) and 46(1) make references to "transferred" provisions. The amendments to these sections would replace

the word "transferred" with "statutory". This takes account of the terms of the Northern Ireland Act 1998 which allows the Northern Ireland Assembly to legislate on "reserved" matters subject to Secretary of State agreement.

Sections 12(1), 15(2) & (3), 41 and 46(2) make references to "Parliament" in the context of a Northern Ireland Parliament. Each such reference would be substituted with a reference to the Northern Ireland Assembly.

Section 28(1) provides that repeal of an enactment must not be deemed to be a declaration by Parliament that the enactment was previously in force in Northern Ireland. This provision would be extended to apply also to repeals by the Assembly.

Section 30(1) (Reprints) deals with reprinting enactments and provides that where a transferred provision is to be reprinted it can include the addition, substitution or omission of words. This provision would be extended to include the 'reprint' of Acts of the Assembly.

Section 30(2). The amendment at section 30(2) would give authority to the Presiding Officer for the purpose of reprinting an Act. This replaces the former powers and duties of the Clerk of Parliament.

In **section 30(3) and (5)** the word "enactment" would be replaced with "Act". This is consequential on the amendments to section 30(1) which would substitute reference to reprinting "transferred provisions" to relate instead to reprinting Acts of the Assembly.

Section 30(4). Two consequential amendments are made at section 30(4). The power of the "Speaker of both Houses of Parliament" to direct that a transferred provision be reprinted would be conferred instead on the Presiding Officer in relation to Acts of the Assembly.

Section 32(2)(b) currently refers to "the powers of Parliament". The reference to Parliament would be replaced with "any power to".

Section 43(2). The definition of the "Great Seal" would be extended to apply to its use when authorised by section 49 of Northern Ireland Act 1998.

Section 46 provides miscellaneous definitions. This proposed amendment would provide definitions of the expressions "The Belfast Agreement", "cross-community support", "excepted matters", "Northern Ireland legislation", "reserved matters" and "transferred matters". From the date appointed for devolution, these expressions, where they are used in any enactment, would have the same meaning as in the Northern Ireland Act 1998. The amendment would also provide that a reference in legislation to a Minister of a Northern Ireland department, as it relates to the Office of the First and deputy First Ministers, would be construed as a reference to those Ministers acting jointly.

5.10 Paragraph 10 would amend *The Registration of Births, Deaths and Marriages (Fees, etc.) Act (Northern Ireland) 1955.*

Section 1 confers power on the '**Governor**' by order to prescribe the amount of fees payable for registration of marriages, births, deaths, adoptions, searches in such registers and certificates relating to such events. This would be amended to confer power to prescribe such fees on the Department of Finance and Personnel subject to the order being approved by resolution of the Northern Ireland Assembly.

Section 2(3) gave the **Governor** power to add to the enactments mentioned in 1955 Act under which a person is entitled to obtain a certified copy of birth, marriage or death. The amendment to section 2(3) would again transfer this power to the Department of Finance and Personnel subject to the order being approved by resolution of the Assembly.

5.11 Paragraph 11 would amend section 9 of *The Births, Deaths and Marriages Registration Act (Northern Ireland) 1956.*

Section 9 deals with power to grant special licences for marriages and enables the **Governor** to appoint a person to act as deputy with powers to

grant such licences. The amendment to this section would transfer power to make such appointments to the Minister of Finance and Personnel.

5.12 Paragraph 12 would amend Schedule 1 to *The Professions Supplementary to Medicines Act 1960*

This Act provides for regulation of the medical profession and for a Council for Professions Supplementary to Medicine. It provides that one of its members be appointed by *the 'Governor of Northern Ireland'*. The amendment to this provision would transfer this power to the First Minister and deputy First Minister, acting jointly.

5.13 Paragraph 13 would amend section 6 of *The Institute of Chartered Accountants in Ireland (Charter Amendment) Act (NI) 1966*

Section 6 makes any alteration of bye-laws by the Institute subject to approval by the Privy Council of Northern Ireland. The amendment to section 6 would make such alterations subject to approval by the Department of Enterprise, Trade and Investment.

5.14 Paragraph 14 would amend section 13(4) of *The Parliamentary Commissioner Act 1967*

Section 13 deals with the application of this Act to Northern Ireland and makes reference to the "Cabinet of Northern Ireland" and to the 'Prime Minister' of Northern Ireland'. The amendment to this provision would replace both expressions with references, respectively, to "the Executive Committee of the Assembly" and to "the First Minister and deputy First Minister of Northern Ireland, acting jointly".

5.15 Paragraph 15 would amend section 1 of *The Census Act (NI) 1969*

Section 1 gave to the '*Governor*' power by Order in Council to direct that a census of the population should be taken including its timing and particulars to be stated in returns. The amendment to this section would now confer this power on the First Minister and deputy First Minister acting jointly. It would

be exercised by order and would be subject to a draft of the order being laid before and approved by resolution of the Assembly. Consequential amendments are also made to sections 2(2), 3(1) and 7(1).

5.16 Paragraph 16 would amend section 1(6) of *The Age of Majority Act (NI) 1969*

This Act reduced the age of majority from 21 to 18 years and **section 1(6)** gave power to the '**Governor**' by Order in Council to amend other statutory provision to likewise reduce the age of majority from 21 to 18. The amendment to this section would now confer this power on the Department of Finance and Personnel subject to a draft of the order being laid before and approved by resolution of the Assembly.

5.17 Paragraph 17 would amend sections 1 and 2 of *The Social Services (Parity) Act (Northern Ireland) 1971*

This Act makes provision for maintaining certain social services generally in parity with Great Britain. The amendments to **sections 1 and 2** include replacing reference to the Governor with the Department for Social Development.

5.18 Paragraph 18 would amend section 103 of *The Local Government Act (Northern Ireland) 1972*

This Act makes provision for the constitution of district councils.

Section 103 provides that no costs incurred by a council in promotion or opposition to a Bill, *which are liable to be taxed under the Parliamentary Costs Acts 1847 to 1879 (as adapted by the Private Bill Procedure Act (NI) 1924)* are to be charged to council funds unless they have been so taxed and allowed. The amendment to section 103 would apply this requirement to any statutory provision and is consequent on the repeal of the 1924 Act.

5.19 Paragraph 19 would amend *The Water and Sewerage Services (Northern Ireland) Order 1973*

This Order established the Water Appeals Commission and provides for the constitution of the Commission. In **Schedule 1**, the **Governor** is identified as the appointing authority.

The amendment to Schedule 1 would transfer this power from the Governor to the First Minister and deputy First Minister acting jointly.

5.20 Paragraph 20 would amend *The Births and Deaths Registration (Northern Ireland) Order 1976*

This Order makes provision for the registration of births, and deaths and the issue of certified copies of certificates. **Section 47(2)** deals with fees payable for searches, certified copies, etc. and permits the Secretary of State by order to prescribe the level of such fees. The amendment to this section would give this power to the Department of Finance and Personnel.

5.21 Paragraph 21 would amend *The Sex Discrimination (N I) Order 1976*

This Order relates to discrimination on grounds of sex and established the Equal Opportunities Commission for Northern Ireland. By virtue of the Schedule 13 to Northern Ireland Act 1998 the Commission will now be known as "the Equality Commission".

Article 74 of the Order gives power to the Secretary of State by order to prescribe forms by which an aggrieved person may question a respondent, the respondent may reply and the period within which questions and replies must be served. The amendment to this Article would now confer these powers on the Office of the First Minister and deputy First Minister.

Article 79 gives power to the Secretary of State by order to amend certain provision of the 1976 Order. The amendment proposed by this Order would confer this power instead on the Office of the First Minister and deputy First Minister. However that Office would not be permitted to lay the order before the Assembly until the Commission has been consulted about its contents.

Article 80 generally sets out the legislative procedures for making orders under the provisions of the 1976 Order. Other than in the case of certain named exceptions it makes such orders subject to negative resolution. As an order under *Article 79(1)* is subject to **approval** by the Assembly that provision is being added to the named exceptions in *Article 80*.

5.22 Paragraph 22 would amend *The Financial Provisions (NI) Order 1976*

This Order deals with the issue of certificates of birth, marriage or death for the purposes of certain Acts. *Article 15* sets the fee payable under the Savings Bank Act 1887 for the issue of such certificates for the purpose of certain Acts relating to banking and enables the Secretary of State by order to increase the fee. The amendment to this Article would provide for the Department of Finance and Personnel, rather than the Secretary of State, to make the order increasing the fee and require such an order to be laid in draft before and approved by resolution of the Assembly.

5.23 Paragraph 23 would amend *The Statutory Rules (Northern Ireland) Order 1979*

This Order makes provision with respect to the numbering, publication and sale of subordinate legislation, the laying of certain subordinate legislation and the duties of the rule-making authorities and their officers.

Article 4 defines "statutory rules". The amendment to this Article would extend that definition to apply to all Northern Ireland orders, rules, regulations or byelaws made under powers conferred by any Act of the new Assembly except where that power is expressed to be by statutory instrument.

Article 5 deals with the duties of rule-making authorities and their officers. It would be amended to update the references to 'matters in respect of which the Parliament of Northern Ireland has powers to make laws' and 'Head of a

Northern Ireland department' by substituting references to 'transferred matters' and to 'Ministers of that department' respectively.

Schedule 1. Part I of this Schedule lists rule-making authorities including the 'chief executive member' in relation to the former Northern Ireland Assembly. This would be substituted to refer to the First Minister and deputy First Ministers acting jointly. Parts I and II of the Schedule also refer to the 'Head' of a department and this would be substituted to refer instead to the 'Minister'.

5.24 Paragraph 24 would amend *The Mental Health (Scotland) Act 1984*

Section 15 of this Act deals with correspondence from hospital patients. It allows postal packages delivered for post by a patient to be withheld in certain circumstances - in particular, where a State hospital considers the package is likely to cause distress or danger to any person. Also a State hospital can withhold a postal package addressed to a patient if to do so is in the interests of the patient or for the protection of others. Certain exceptions to these provisions are provided in section 115(3).

Section 115(3) exempts from these provisions any postal package addressed by a patient to, or sent to a patient from, any Minister of the Crown or member of the House of Parliament. The amendment by this Order would extend the exemption to apply also to such packages sent to or from members of the Northern Ireland Assembly.

5.25 Paragraph 25 would amend *The Planning (NI) Order 1991*

Article 110(2) confers a power on the Secretary of State to make appointments to the Planning Appeals Commission. The amendment to Article 110(2) would transfer the power from the Secretary of State to the First Minister and deputy First Minister acting jointly.

5.26 Paragraph 26 would amend *The Ombudsman (NI) Order 1996*

This Order relates to the appointment and functions of a Commissioner (the Ombudsman) to investigate complaints alleged to arise from administrative acts for which certain local or public bodies are responsible.

Article 14 concerns evidence relating to such investigations and subsection (5) exempts proceedings of the Northern Ireland Executive or of a committee of the Executive from the requirement to furnish evidence and answer questions. Article 14(5) would be amended to apply this exemption to "the Executive Committee of the new Assembly or a sub-committee of that Committee".

Article 14(6) currently makes reference to the "Northern Ireland Executive" and to the "chief executive member". This would be substituted to refer to the "Executive Committee of the Assembly" and to the "First and deputy First Minister acting jointly".

5.27 Paragraph 27 would amend *The Industrial Tribunals (Northern Ireland) Order 1996*

This Order makes provision relating to the constitution, jurisdiction and procedure of Industrial Tribunals.

Article 5(1) enables the Secretary of State by order to provide for claims to be brought before an industrial tribunal. This Order would amend that provision to confer this order making power on the Department of Higher and Further Education, Training and Employment rather than on the Secretary of State.

A consequential amendment would be made to **Article 25(3)** to require the Department of Higher and Further Education, Training and Employment to lay such an order before the Assembly and to impose an expiry date of 6 months unless it is approved by resolution of the Assembly.

5.28 Paragraph 28 would amend *Article 1 of The Civil Evidence (Northern Ireland) Order 1997*

This Order which provides for the admissibility of hearsay evidence in civil proceedings and for the proof of certain documentary evidence is not yet in force. **Article 1(2) and (3)** gives the Secretary of State power to appoint a day or days by order for it to come into operation.

The proposed amendment would transfer this power to the Minister of Finance and Personnel.

5.29 Paragraph 29 would amend Article 1(2) of *The Family Homes and Domestic Violence (Northern Ireland) Order 1998*

This Order which relates to the rights associated with persons who are parties to domestic violence and associated matters is not yet in force. The Order has not commenced. **Article 1(2)** gives the Secretary of State power to appoint a day or days by order for it to come into operation.

The proposed amendment would transfer this power to the Minister of Finance and Personnel.

6. DETAILED PROVISIONS - SCHEDULE 2

Schedule 2 lists repeals which are consequent on the provisions of this Order and on the Northern Ireland Act 1998.

6.1 *The Fairs(Ireland) Act 1868*

Extent of Repeal: as set out below

The Act provides a power for the Lord Lieutenant in Council to alter the days or places for the holding of fairs. The amendment in Schedule 1 which transfers the Lord Lieutenant power to the Department of Agriculture and Rural Development will require consequential repeals to be made to sections 3 and 4 of the Act to remove references to the Lord Lieutenants powers.

6.2 *The Irish Land Act 1909*

Extent of Proposed Repeal: as set out below

This Act relates to the occupation and ownership of land.

As the Irish Land Purchase Fund has been wound up by section 94(3) of the Northern Ireland Act 1998, the repeal the following provisions which relate to it in the 1909 Act, is necessary:

- **sections 1(2) & (3), 2 (1) & (2), 7(2).**

6.3 The Exchequer and Audit Act (Northern Ireland) 1921

Extent of Repeal: section 30.

Section 30 provides for the effect of the 1921 Act on anything subsequently done for the purposes or provisions of the Government of Ireland Act 1920. As the Act of 1920 has been repealed by the Northern Ireland Act 1998 this provision is spent and likewise is being repealed.

6.4 The Public Records Act (Northern Ireland) 1923

Extent of Repeal: in sections 2 and 11(a) the words "in the name and on the behalf of the Governor of Northern Ireland" would be repealed.

6.5 The Private Bill Procedure Act (Northern Ireland) 1924

Extent of repeal: the whole Act.

This Act which purports to apply 19th century legislation on private Bills to the Northern Ireland Parliament, is almost incomprehensible. Also, the scope for private legislation is now much reduced and the Assembly would doubtless want to develop its own legislation or standing orders in this field. For this reason the Act is being repealed.

6.6 The Northern Ireland Land Act 1925

Extent of proposed repeal: as set out below.

This Act amends the law relating to the occupation and ownership of land in Northern Ireland. As the Irish Land Purchase Fund has been wound up by section 94(3) of the Northern Ireland Act 1998. Consequentially, the provisions relating to it in the 1925 Act are being repealed as follows:

- **sections 1 (1) (b) & (d), 1(2), 2(1) to (4), 3(1) to (4) and 5.**

6.7 The Interpretation Act (Northern Ireland) 1954

Extent of Repeal: as set out below.

Sections 1(f), 6 and 39(7) make reference to the 'Parliament of Northern Ireland'. This expression is no longer appropriate and, accordingly, these references would be repealed.

Section 30(2) the words "may add thereto" are superfluous and would be repealed.

Sections 41(5) and (7) provide definitions of the expressions "subject to negative resolution of the Commons" and "subject to affirmative resolution of the Commons". These expressions are no longer applicable and would be repealed.

Section 44 refers to "parliamentary boroughs". As there are no longer parliamentary boroughs in Northern Ireland these references are not applicable and would be repealed.

6.8 The Northern Ireland Constitution Act 1973

Extent of Repeal: as set out below:

Section 42(3) provides a saving for existing laws. The words in that provision, as specified for repeal, are no longer necessary as the saving to which they relate can now be construed in accordance with Schedule 12 to the Northern Ireland Act 1998.

In **section 43(2)** the words specified for repeal refer to interpretation of certain references in the Act which have already been repealed.

Section 43(3) provides for references to the "Ministry of Finance" to be construed as the "Department of Finance". This provision is now spent and can be repealed.

6.9 The Sex Discrimination (Northern Ireland) Order 1976.

Extent of Repeal: Article 74(6)

Article 74 confers order making powers on the Secretary of State and Article 74(6) deals with the parliamentary procedures for such orders. However, as Schedule 1 to this Order now transfers these order making powers to the

Office of the First and deputy First Ministers and applies the negative resolution procedures (under Article 80 of the 1976 Order) to such orders *Article 74(6)* is no longer required and is being repealed.

6.10 The Social Security Contributions and Benefits (NI) Act 1992.

Extent of Repeal: section 172(8)

Section 172(8) of the 1992 Act makes provision by reference to "the interim period" as defined by the Northern Ireland Act 1974 - that is the period of direct rule. With implementation of devolution and the consequential repeal of the 1974 Act by the Northern Ireland Act 1998, section 172(8) is no longer applicable and is being repealed.

6.11 The Social Security Administration (Northern Ireland) Act 1992.

Extent of Repeal: section 166(11)

Section 166(11) of the 1992 Act also makes provision by reference to "the interim period" as defined by the Northern Ireland Act 1974 - that is, the period of direct rule. With implementation of devolution and the consequential repeal of the 1974 Act by the Northern Ireland Act 1998, the section 166(11) provision is no longer applicable and is being repealed.

6.12 The Disability Discrimination Act 1995

Extent of Proposed Repeal: as set out below

In *section 50(8)* (which extends to Northern Ireland only by virtue of Article 1(3)) the words "including provision about its membership" are now superfluous and can be repealed. This is consequent on the Northern Ireland Act 1998 which substitutes, as respects Northern Ireland, "The Equality Commission for Northern Ireland" for the National Disability Council".

6.13 Jobseekers (Northern Ireland) Order 1995.

Extent of Repeal: paragraphs 46 and 47 of Schedule 2

Paragraphs 46 and 47 of Schedule 2 to the Jobseekers Order amended sections 153 (co-ordination) and 154 (reciprocity) of the Social Security

Administration (Northern Ireland) Act 1992. Sections 153 and 154 of the 1992 Act have now been repealed by the Northern Ireland Act 1998 - which makes specific provision for consultation and co-ordination between the Secretary of State and the Northern Ireland Minister for social security on social security, child support and pensions. Consequently, paragraphs 46 and 47 of the Jobseekers Order are no longer effective and would also be repealed.

6.14 The Industrial Tribunals (Northern Ireland) Order 1996

Extent of Proposed Repeal: in Article 25 the words "or 5".

Article 25(2) provides that orders made under Article 5 of the 1996 Order, be subject to annulment by either House of Parliament. The proposed transfer of power to make orders under Article 5 from the Secretary of State to the Department of Higher and Further Education, Training and Employment means that this provision is no longer appropriate.

6.15 The Family Homes and Domestic Violence (NI) Order 1998

Extent of Proposed Repeal: as set out below

Article 40(2) refers to orders made by the Secretary of State. The reference to the Secretary of State would be repealed as a consequence of the amendment to Article 1(2) which would transfer those order making powers from the Secretary of State to the Minister of Finance and Personnel.

6.16 The Social Security (Northern Ireland) Order 1998

Extent of Repeal: paragraphs 82 and 83 of Schedule 6.

Schedule 6, paragraphs 82 and 83 of the Social Security (Northern Ireland) Order 1998 amends sections 153 and 154 of the Social Security Administration (Northern Ireland) Act 1992. Sections 153 and 154 of the 1992 Act have been repealed by the Northern Ireland Act 1998. Accordingly, paragraphs 82 and 83 of Schedule 6 to the 1998 Order no longer have any practical effect and are being repealed.

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