

Draft Order in Council laid before Parliament under section 86 of the Northern Ireland Act 1998. for approval by resolution of each House of Parliament

DRAFT STATUTORY INSTRUMENTS

1999 No.

NORTHERN IRELAND

Northern Ireland (Modification of Enactments - No.1) Order 1999

Made

Coming into force in accordance with Article 1(2)

At the Court at _____, the _____ day of _____ 1999

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by section 86 of the Northern Ireland Act 1998(a) and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:-

Title, commencement and extent

- 1.-(1) This Order may be cited as the Northern Ireland (Modification of Enactments - No. 1) Order 1999.
- (2) This Order shall come into force on the appointed day.
- (3) Subject to paragraphs (4) and (5), this Order extends to Northern Ireland only.
- (4) The following provisions extend to the whole of the United Kingdom-
 - (a) this Article and Article 5;
 - (b) paragraphs 12 and 14 of Schedule 1 (and Article 2(1) so far as relating thereto)
- (5) Paragraph 24 of Schedule 1 (and Article 2(1) so far as relating thereto) extends to Scotland only.

Modification of enactments

- 2.-(1) The enactments set out in Schedule 1 shall have effect subject to the amendments specified in that Schedule.
- (2) The enactments set out in columns 1 and 2 of Schedule 2 are hereby repealed to the extent specified in column 3 of that Schedule.
- (3) In the Northern Ireland (Modification of Enactments - No.1) Order 1973 (b) -
- (a) Articles 12 and 13; and
 - (b) in Schedule 5, paragraphs 18 and 24,
- are hereby revoked.

Subordinate legislation

- 3.-(1) A statutory rule which-
- (a) is made before the appointed day; and
 - (b) would, but for this paragraph, have been liable to be annulled or capable of being revoked in pursuance of a resolution, motion or address of the Assembly,
- shall not be so annulled or revoked.
- (2) So much of any statutory provision as makes it a condition for the continuing of any statutory rule in operation that it is approved by a resolution of the Assembly shall not apply in relation to any statutory rule made before the appointed day.
- (3) Where immediately before the appointed day a statutory rule is, by virtue of paragraph 3(3) of Schedule 1 to the Northern Ireland Act 1974(c), liable to be annulled in pursuance of a resolution of either House of Parliament, it shall on that day cease to be so liable.
- (4) In this Article "statutory rule" has the same meaning as in the Statutory Rules (Northern Ireland) Order 1979(d).

Application of Documentary Evidence Act 1868 to First Minister and deputy First Minister

- 4.-(1) The Documentary Evidence Act 1868 (e), as amended by the Documentary Evidence Act 1882(f), shall apply to the First Minister and deputy First Minister as if -
- (a) they were mentioned in column 1 of the Schedule to the 1868 Act;
 - (b) they or a person authorised by them to act on their behalf were mentioned in column 2 of that Schedule; and
 - (c) the regulations referred to in those Acts included any document issued by them.
- (2) References to the First Minister and deputy First Minister in paragraph (1) are references to them acting jointly.

(b) S.I. 1973/2163 (c) 1974 c.28 (d) 1979 NI 12 (e) 1868 c.37
(f) 1882 c.9

SCHEDULE 1
AMENDMENTS

AMENDMENTS

Transitional and saving provision

5.-(1) Any subordinate legislation made or other thing done before the appointed day under any enactment amended by Schedule 1 shall have effect on and after that day as if made or (as the case may be) done under that enactment as amended.

(2) The amendments made by Schedule 1 do not prejudice the operation of section 95(5) of, and Schedule 12 to, the Northern Ireland Act 1998.

The Department of Finance and Personnel's general abstract of the number of mortgages registered during the foregoing year in each form as that Department may require, and every such annual general abstract shall be laid before the Assembly by that Department.

(2) In section 67 for "Lord Lieutenant" substitute "Department of Finance and Personnel".

The Department of Finance and Personnel's general abstract of the number of mortgages registered during the foregoing year in each form as that Department may require, and every such annual general abstract shall be laid before the Assembly by that Department.

2. In section 16 for the words from "Lord Lieutenant" (where they first occur) to the end substitute "Department of Finance and Personnel's general abstract of the number of mortgages registered during the foregoing year in each form as that Department may require, and every such annual general abstract shall be laid before the Assembly by that Department."

The Fairs (Ireland) Act 1964 (c. 12)

3. In section 3 for "Lord Lieutenant in Council, upon representations duly made to him" substitute "Department of Agriculture and Rural Development upon representations duly made to it", and "the Lord Lieutenant, by and with the advice of Her Majesty's Privy Council in Ireland" substitute "that Department" and for "he shall think fit" substitute "it shall think fit".

The Rural (Ireland) Act 1974 (c. 10)

4. In section 4 for "Lord Lieutenant in Council" substitute "Department of the Environment".

The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1975 (c. 10)

5. In section 14 for "Lord Lieutenant" substitute "Clerk of the Privy Council".

The Social (Ireland) Act 1975 (c. 10)

6. (1) In section 2(1) for "Lord Lieutenant may from time to time provide" substitute "Department for Social Development may by order provide".

(2) In section 4 for "Lord Lieutenant" substitute "Department for Social Development".

(3) In section 5 for "Lord Lieutenant of Ireland" substitute "Department for Social Development".

SCHEDULE 1
AMENDMENTS

Article 2(1)

The Marriages (Ireland) Act 1844 (c. 81)

1.-(1) In section 7 for "subject to the approbation of the lord lieutenant" substitute "with the approval of the Minister of Finance and Personnel" and for "during the pleasure of the lord lieutenant" substitute "unless the Minister of Finance and Personnel otherwise directs".

*change Lord lieut.
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M.O.F.P.*

(2) In section 56 for the words from "lord lieutenant" to the end substitute "Department of Finance and Personnel a general abstract of the number of marriages registered during the foregoing year in such form as that Department may require; and every such annual general abstract shall be laid before the Assembly by that Department."

(3) In section 67 for "lord lieutenant" substitute "Department of Finance and Personnel".

The Registration of Marriages (Ireland) Act 1863 (c. 90)

2. In section 16 for the words from "Lord Lieutenant" (where they first occur) to the end substitute "Department of Finance and Personnel a general abstract of the number of marriages registered during the foregoing year in such form as that Department may require; and every such annual general abstract shall be laid before the Assembly by that Department."

The Fairs (Ireland) Act 1868 (c. 12)

3. In section 3 for "Lord Lieutenant in Council, upon representation duly made to him" substitute "Department of Agriculture and Rural Development upon representation duly made to it", for "the Lord Lieutenant, by and with the advice of Her Majesty's Privy Council in Ireland" substitute "that Department" and for "he shall think fit" substitute "it shall think fit".

The Burial (Ireland) Act 1868 (c. 103)

4. In section 4 for "Lord Lieutenant in Council" substitute "Department of the Environment".

The Matrimonial Causes and Marriage Law (Ireland) Amendment Act 1870 (c. 110)

5. In section 34 for "Lord Lieutenant" substitute "Minister of Finance and Personnel".

The Pedlars Act 1871 (c. 96)

6.-(1) In section 5(6) for "Lord Lieutenant may from time to time provide" substitute "Department for Social Development may by order provide".

(2) In section 8 for "Lord Lieutenant" substitute "Department for Social Development".

(3) In Schedule 2 for "Lord Lieutenant of Ireland" substitute "Department for Social Development".

The Public Records Act (Northern Ireland) 1923 (c. 20 (N.I.))

- 7.-(1) In section 1(2)(a) for "has power" substitute "had power".
- (2) In section 7(1) and (3) for "Governor of Northern Ireland" substitute "Minister of Culture, Arts and Leisure".
- (3) In section 8(4) for the words from "be laid before" to the end substitute "be subject to negative resolution".
- (4) In section 10 for the words from "the Governor of Northern Ireland" to the end substitute "the First Minister and the deputy First Minister of the proceedings taken under this Act and that report shall be laid before the Assembly."

The Petroleum (Consolidation) Act (Northern Ireland) 1929 (c.13 (N.I.))

- 8.-(1) In section 19(1) for the words "Governor of Northern Ireland may by Order in Council" substitute "Department of Enterprise, Trade and Investment may by order", for "Order" (where it twice occurs) substitute "order" and for "the said Governor" substitute "that Department".
- (2) In section 19(2) and (3) for "Order in Council" and "Order" (wherever they occur) substitute "order".
- (3) In section 21 for the words from "be laid before" to the end substitute "be subject to negative resolution".

The Interpretation Act (Northern Ireland) 1954 (c.33 (N.I.))

- 9.-(1) In section 1-
 - (a) in paragraph (a) at the end add "or an Act of the Assembly";
 - (b) in paragraph (f) after "Parliament" (where it first occurs) insert "or Assembly";
 - (c) in paragraph (g)(ii) for "has power" substitute "had power".
- (2) In section 2(2) for "transferred" wherever it occurs substitute "statutory".
- (3) In section 12(1) for "Parliament" substitute "the Assembly".
- (4) In section 12(2) for "transferred" wherever it occurs substitute "statutory".
- (5) In section 15(2) -
 - (a) for "Parliament" (where it first occurs) substitute "the Assembly";
 - (b) for "having passed both Houses of Parliament" substitute "having been passed by the Assembly".
- (6) In section 15(3) for "having passed both Houses of Parliament" substitute "having been passed by the Assembly".
- (7) In sections 17(4), 27, 28 and 29 for "transferred" wherever it occurs substitute "statutory".
- (8) In section 28(1) after "Parliament" insert "or (as the case may be) the Assembly".
- (9) In section 30(1)-
 - (a) for "a transferred provision is to be reprinted, that provision" substitute "an Act is to be reprinted, that Act" ;
 - (b) for "any transferred provision" substitute "any statutory provision".
- (10) In section 30(2)-
 - (a) for the words from the beginning to "copy of that provision" substitute "For the purpose of reprinting any Act, the Presiding Officer shall cause to be prepared and shall certify a copy of that Act ";

- (b) for "transferred provision" substitute "statutory provision";
- (c) for "appear to him" substitute "may be".
- (11) In section 30(3) for "enactment" (where it first occurs) substitute "Act".
- (12) In section 30(4)-
 - (a) for the words from the beginning to "transferred provision" substitute "The Presiding Officer may by order direct that any Act";
 - (b) for "that provision" substitute "that Act".
- (13) In section 30(5) for "a transferred provision" substitute "an Act".
- (14) In section 32(2)(b) for "the powers of Parliament" substitute "any power".
- (15) In section 41(1) in the definitions of "House of Commons" and "Parliament" after "qualification" insert "in any enactment passed or made before 1st January 1974".
- (16) In section 41 for subsection (3) substitute-
 - "(3) Where, under any enactment, a statutory instrument or statutory document is required to be laid before the Assembly, the delivery of a copy of the instrument or document to the Business Office of the Assembly on any day during the existence of an Assembly shall for all purposes be deemed to be the laying of it before the Assembly."
- (17) In section 41(4) for "each House of Parliament" substitute "the Assembly".
- (18) In section 41(6) for "each House of Parliament, and if either such House" substitute "the Assembly, and if the Assembly".
- (19) In section 43(2) in the definition of "Great Seal" -
 - (a) for the words "include the" substitute "include a";
 - (b) at the end add "or section 49 of the Northern Ireland Act 1998".
- (20) In section 46(1) in the definition of "Valuation Acts" for "transferred" substitute "statutory".
- (21) In section 46(2) in the definition of "constitutional laws of Northern Ireland" for "Parliament" substitute "the Assembly".
- (22) In section 46 at the end add-
 - "(3) In any enactment passed or made after the day appointed for the commencement of Parts II and III of the Northern Ireland Act 1998, the following expressions shall have the same meaning as in that Act -
 - "The Belfast Agreement";
 - "cross-community support";
 - "excepted matter";
 - "Northern Ireland legislation";
 - "reserved matter"; and
 - "transferred matter".
 - (4) In any enactment, whenever passed or made, any reference to a Minister of a Northern Ireland department shall, in the case of the Office of the First Minister and deputy First Minister, be construed as a reference to the First Minister and deputy First Minister acting jointly."

The Registration of Births, Deaths and Marriages (Fees, etc.) Act (Northern Ireland) 1955 (c. 29 (N.I.))

- 10.-(1) In section 1(2) for "Governor may by Order in Council" substitute "Department of Finance and Personnel may by order".
- (2) In section 1 for subsection (3) substitute-

“(3) An order shall not be made under this section or section 2 unless a draft of the order has been laid before and approved by resolution of the Assembly.”.

(3) In section 2(3) for “Governor may by Order in Council” substitute “Department of Finance and Personnel may by order” and for “Order in Council” substitute “order”.

The Births, Deaths and Marriages Registration Act
(Northern Ireland) 1956 (c. 5 (N.I.))

11. In section 9 for “Governor” substitute “Minister of Finance and Personnel”.

The Professions Supplementary to Medicine Act 1960 (c. 66)

12. In Schedule 1 in paragraph 1(1)(a) for “Governor of Northern Ireland” substitute “First Minister and deputy First Minister in Northern Ireland acting jointly”.

The Institute of Chartered Accountants in Ireland (Charter Amendment) Act
(Northern Ireland) 1966 (c. 1 (N.I.))

13. In section 6 for “Privy Council of Northern Ireland” substitute “Department of Enterprise, Trade and Investment”.

The Parliamentary Commissioner Act 1967 (c. 13)

14. In section 13(4) for the words from “include references” to the end substitute “include references to the Executive Committee of the Assembly, and in relation to that Committee for the reference to the Prime Minister there shall be substituted a reference to the First Minister and deputy First Minister acting jointly.”

The Census Act (Northern Ireland) 1969 (c. 8 (N.I.))

15.-(1) In section 1(1) for “Governor may by Order in Council” substitute “First Minister and deputy First Minister acting jointly may by order”.

(2) In section 1(2) and (3) for “Order” substitute “order”.

(3) In section 1 for subsection (4) substitute-

“(4) An order shall not be made under this section unless a draft of the order has been laid before and approved by resolution of the Assembly.”.

(4) In sections 2(2), 3(1) and 7(1) for “Order in Council” (wherever it occurs) substitute “order”.

The Age of Majority Act (Northern Ireland) 1969 (c. 28 (N.I.)) ?

16. In section 1(6) for “Governor may by Order in Council” substitute “Department of Finance and Personnel may by order” and for the words from “the Governor shall not be advised” to the end substitute “that Department shall not make any such order unless a draft of the order has been laid before and approved by resolution of the Assembly.”.

The Social Services (Parity) Act (Northern Ireland) 1971 (c. 21 (N.I.))

17.-(1) In sections 1 and 2 for “Order in Council” and “Order” (wherever occurring) substitute “order”.

(2) In section 1(2) for the words from "by one House of Parliament" to "Governor" substitute "the Department for Social Development" and for "those resolutions" substitute "that resolution".

The Local Government Act (Northern Ireland) 1972 (c. 9 (N.I.))

18. In section 103 for the words from "the Parliamentary Costs" to "1924" substitute "any statutory provision".

The Water and Sewerage Services (Northern Ireland) Order 1973 (NI 2)

19. In Schedule 1 in paragraph 1(1) for "Governor" substitute "First Minister and deputy First Minister acting jointly".

The Births and Deaths Registration (Northern Ireland) Order 1976 (NI 14)

20. In Article 47 for paragraph (2) substitute-

"(2) The Department may by order prescribe the fees payable for the purposes of paragraph (1); but no order shall be made under this paragraph unless a draft of the order has been laid before and approved by resolution of the Assembly."

The Sex Discrimination (Northern Ireland) Order 1976 (NI 15)

21.-(1) In Article 74(1) and (3) for "Secretary of State" substitute "Office of the First Minister and deputy First Minister".

(2) In Article 79(1) for "Secretary of State" substitute "Office of the First Minister and deputy First Minister".

(3) In Article 79 (2) for the words from the beginning to "laid" substitute "The Office of the First Minister and deputy First Minister shall not lay".

(4) In Article 79(3) for "Secretary of State" substitute "Office of the First Minister and deputy First Minister".

(5) In Article 80(1) for "or 59(2)" substitute ", 59(2) or 79(1)".

The Financial Provisions (Northern Ireland) Order 1976 (NI 21)

22.-(1) Article 15 shall be renumbered as paragraph (1) of that Article, and in that paragraph for "Secretary of State may by order made subject to affirmative resolution prescribe" substitute "Department of Finance and Personnel may by order prescribe".

(2) In Article 15 after paragraph (1) insert-

"(2) No order shall be made under paragraph (1) unless a draft of the order has been laid before and approved by resolution of the Assembly."

The Statutory Rules (Northern Ireland) Order 1979 (NI 12)

23.-(1) In Article 4(a)(ii) for "Measure" insert "Act".

(2) In Article 5(1) for sub-paragraph (a) substitute-

"(a) in the case of an order made by the Secretary of State with respect to any transferred matter (within the meaning of the Northern Ireland Act 1998), to such officer of the department which is responsible for the submission of the draft order to the Secretary of State as the Minister of that department directs;"

- (3) In Schedule 1 in Part I for the entry "The chief executive member" substitute -
"The First Minister and deputy First Minister acting jointly."
- (4) In Schedule 1 in Part I in the entry beginning "Any Northern Ireland department" for "Head" substitute "Minister".
- (5) In Schedule 1 in Part II in the entry beginning "Any Northern Ireland department" for "Head" substitute "Minister".

The Mental Health (Scotland) Act 1984 (c. 36)

24. In section 115(3)(a) after "Parliament" insert "or of the Northern Ireland Assembly".

The Planning (Northern Ireland) Order 1991 (NI 11)

25. In Article 110(2) for "Secretary of State" substitute "First Minister and deputy First Minister acting jointly".

The Ombudsman (Northern Ireland) Order 1996 (NI 8)

- 26.-(1) In Article 14(5) for "Northern Ireland Executive or of a committee of that Executive" substitute "Executive Committee of the Assembly or of a sub-committee of that Committee".
- (2) In Article 14(6) for "Northern Ireland Executive" substitute "Executive Committee of the Assembly" and for "chief executive member" substitute "First Minister and deputy First Minister acting jointly".

The Industrial Tribunals (Northern Ireland) Order 1996 (NI 18)

- 27.-(1) In Article 5(1) for "Secretary of State" substitute "Department".
- (2) In Article 25(3) after "Article" insert "5,".

The Civil Evidence (Northern Ireland) Order 1997 (NI 21)

28. In Article 1(2) and (3) for "Secretary of State" substitute "Minister of Finance and Personnel".

The Family Homes and Domestic Violence (Northern Ireland) Order 1998 (NI 6)

29. In Article 1(2) for "Secretary of State" substitute "Minister of Finance and Personnel".

SCHEDULE 2
REPEALS

Article 2(2)

Chapter or number	Short title	Extent of repeal
1868 c. 12	The Fairs (Ireland) Act 1868.	In section 3 the words "and of the time when it shall please the Lord Lieutenant to order the same to be taken into consideration by the Privy Council". In section 4 the words "by the Lord Lieutenant in Council".
1909 c. 42	The Irish Land Act 1909.	Section 1(2) and (3). Section 2. Section 7(2).
1921 c.2 (N.I.)	The Exchequer and Audit Act (Northern Ireland) 1921.	Section 30.
1923 c. 20 (N.I.)	The Public Records Act (Northern Ireland) 1923.	In section 2(1) the words "in the name and on behalf of the Governor of Northern Ireland", In section 11(a) the words "in the name and on behalf of the Governor of Northern Ireland".
1924 c.9 (N.I.)	The Private Bill Procedure Act (Northern Ireland) 1924.	The whole Act.
1925 c.34	The Northern Ireland Land Act 1925.	Section 1(1)(b) and (d). Section 1(2). Sections 2, 3 and 5.
1954 c. 33 (N.I.)	The Interpretation Act (Northern Ireland) 1954.	In section 1(f) the words from "whether or not" to the end. In section 6 the words "the portion of Ireland which is within the jurisdiction of the Parliament of". In section 30(2), the words "may add thereto".

		In section 39(7) the words from "in respect of" to "make laws" Section 41(5) and (7). In section 44- (a) in the definition of "borough" the words from "and, when used" to the end; (b) the definition of "parliamentary borough".
1973 c.36	The Northern Ireland Constitution Act 1973	In section 42(3) the words from "and any provision of any Act" to the end. In section 43(2) the definitions of "the Assembly", "excepted matter", "Measure", "reserved matter" and "transferred matter". Section 43(3).
1976 NI 15	The Sex Discrimination (Northern Ireland) Order 1976.	Article 74(6).
1992 c. 7	The Social Security Contributions and Benefits (Northern Ireland) Act 1992.	Section 172(8).
1992 c. 8	The Social Security Administration (Northern Ireland) Act 1992.	Section 166(11).
1995 c.50	The Disability Discrimination Act 1995.	In section 50(8), the words "including provision about its membership".
1995 NI 15	The Jobseekers (Northern Ireland) Order 1995.	In Schedule 2, paragraphs 46 and 47.
1996 NI 18	The Industrial Tribunals (Northern Ireland) Order 1996.	In Article 25(2) the words "5 or".
1998 NI 6	The Family Homes and Domestic Violence (Northern Ireland) Order 1998.	In Article 40(2) the words "or the Secretary of State".

1998 NI 10 The Social Security (Northern
Ireland) Order 1998.

In Schedule 6, paragraphs 82
and 83.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order amends or repeals certain statutory provisions and makes other provision in consequence of, or for giving full effect to, the Northern Ireland Act 1998.