

22/03/98

13:45

10 DOWNING ST → 01817668496

NO.037

002

SECRET - PERSONAL**DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND**

1. A 90-seat Assembly with five members elected by PR/STV from each of the 18 parliamentary constituencies. Arrangements for filling casual vacancies which ensures community balance is preserved.
2. Devolution of executive and legislative functions covering the responsibilities of the six Northern Ireland departments.

Safeguards

3. Safeguards to ensure all sections of the community can participate and work together successfully in the operation of these institutions and that all sections of the community are protected, including:
 - (i) allocation of chairs, Assembly Secretaries and committee membership in proportion to party strengths;
 - (ii) the ECHR and any Bill of Rights for Northern Ireland supplementing it which neither the Assembly nor public bodies can infringe together with a Human Rights Commission union to help enforce it;
 - [(iii) arrangements to ensure key decisions are taken on a cross-community basis. This might require the support of:

22/03/98

13:45

10 DOWNING ST → 01817668496

NO. 037

003

SECRET - PERSONAL**- 2 -**

- either a majority of members voting who also between them represent a majority of both the Unionist and Nationalist members of the Assembly;
- or a weighted majority of members voting, perhaps 70 per cent;
- (iv) key decisions requiring cross-community support might either be designated in legislation in advance (eg election of presiding officer, standing orders, budget allocations, employment equality, cultural issues) and/or be triggered by a right of petition exercised by a significant minority or Assembly members, perhaps 30 per cent;]
- (v) an agreed Code of Practice specifying the respective roles of the Assembly, Assembly Secretaries, its committees, and committee chairs;
- (vi) an Equality Commission to monitor a statutory obligation to promote equality of opportunity in specified areas and parity of esteem between the two main communities, and investigate individual complaints against public bodies.

Operation of Assembly

4. Assembly to elect Presiding Officer on a cross-community basis.
5. Assembly to establish departmental committees to cover each of the Northern Ireland departments. Membership, chairs and Assembly Secretaries ~~to be~~ to be allocated proportionally, using the d'Hondt

22/03/96

13:45

10 DOWNING ST → 01817668496

NO.037

004

SECRET - PERSONAL**- 3 -**

procedure subject to chairs and Assembly Secretaries being drawn from separate parties.

6. The relevant Chairman, under the Code of Practice, would clearly have access on behalf of the Committee, to departmental papers. He would have the right to accompany the Assembly Secretary in dealings with other institutions.
- [7. A Budget and Executive Coordination/General Purposes Committee to bring together the Assembly Secretaries of the subject committees. The Chair either to be selected by the members of the Committee or fall automatically to the first Assembly Secretary to be selected through the d'Hondt procedure. Other non-departmental committees (eg Business Committee, Audit Committee, EU Committee, Justice and Home Affairs Committee) at Assembly's discretion, members, chairs and Assembly Secretaries appointed according to procedure in 4.]
8. Parties and individuals could decline to take up posts. Those accepting a post to undertake to fulfil all responsibilities and duties connected with it. Casual vacancies to be filled by a member of the same party.

Executive authority

9. Executive authority to be administered by the chair relevant Assembly Secretary (eg Secretary for Agriculture) acting as head of department, subject to:

22/03/98

13:45

10 DOWNING ST → 01817668496

NO. 037

D05

SECRET - PERSONAL**- 4 -**

- (i) abiding by the ECHR, existing anti-discrimination provisions and any Bill of Rights for Northern Ireland supplementing it;
 - (ii) a statutory obligation, monitored by an Equality Commission, on all public bodies including each department to promote equality of opportunity in specified areas and parity of esteem;
 - (iii) scrutiny by the relevant departmental committee;
 - (iv) in cases of dispute between the relevant Assembly Secretary and committee, the Assembly as a whole having a power of override, [exercisable only on a cross-community basis.]
10. Funding for Assembly's responsibilities to be determined primarily on basis of existing comparability and block arrangements.
- [11. Budget and Executive Coordination/General Purposes Committee to table an agreed budget, linking resources with objectives, policy and legislative proposals, in advance of each financial year. For approval by Assembly, after scrutiny in departmental committees, on a cross-community basis. In-year changes by the same procedure.]

Legislation

12. Assembly to pass primary legislation for Northern Ireland in devolved areas, subject to:

22/03/98

13:45

10 DOWNING ST → 01817668496

NO. 037

006

SECRET - PERSONAL**- 5 -**

- (i) the ECHR and any Bill of Rights for Northern Ireland supplementing it which, if the courts found to be breached, would render the relevant legislation null and void;
 - (ii) decisions by simple majority of members voting [except when decisions on a cross-community basis required;]
 - (iii) detailed scrutiny and approval in the relevant departmental committee;
 - (iv) mechanisms, based on arrangements proposed for the Scottish Parliament, to ensure suitable coordination, and avoid disputes, between the Assembly and the Westminster Parliament;
 - (v) option of Assembly seeking inclusion of Northern Ireland provisions in UK-wide legislation in Westminster Parliament especially on devolved issues where parity normally maintained (eg social security, company law).
13. Assembly able to legislate in reserved area with the approval of the Secretary of State and subject to Parliamentary control.
14. Disputes over legislative competence to be decided by the Courts.

Relations with other Institutions

- [15. The first five appointments as Assembly Secretaries, who could be termed an Assembly Commission, to represent the Assembly at Summit level,

22/03/98

13:45

10 DOWNING ST → 01817668496

NO. 037

007

SECRET - PERSONAL**- 6 -**

when necessary in relations with other institutions. The Assembly Commission to operate by consensus requiring the agreement of at least four members. Otherwise, representation to be by the Assembly Secretary of the relevant departmental committee accompanied by the committee Chair.]

16. Concordats to be agreed between appropriate Assembly representatives and UK government to ensure effective coordination and input by Assembly Secretaries to national policy-making, including on EU issues.
17. Role of Secretary of State:
 - (i) to remain responsible for NIO matters not devolved to Assembly, subject to regular consultation with Assembly Commission and the Assembly;
 - (ii) to approve and lay before the Westminster Parliament any Assembly legislation which goes beyond its devolved responsibilities;
 - (iii) to represent Northern Ireland interests in the United Kingdom Cabinet;
 - (iv) to monitor the meeting of the United Kingdom's international obligations, including those under a new British-Irish Agreement;
 - (v) to keep the arrangements for devolved administration in Northern Ireland under review.

22/03/98

13:45

10 DOWNING ST → 01817668496

NO. 037

D08

SECRET - PERSONAL

- 7 -

- (vi) to be accountable to Parliament for the overall workings of the various institutions set up under the agreement.

18. Westminster Parliament to:

- (i) legislate for non-devolved issues, other than where Assembly legislates with approval of Secretary of State and subject to control of Parliament;
- (ii) reserve powers to legislate to ensure United Kingdom's international obligations are met in respect of Northern Ireland;
- (iii) scrutinise, including through the Northern Ireland Grand and Select Committees, the responsibilities of the Secretary of State and the overall workings of the various new institutions established.

f democratic institutions as