



## 2021 CHAPTER 3

### *Administrative and operational requirements*

#### **Records of meetings**

6.—(1) The permanent secretary to a Northern Ireland department must ensure that relevant arrangements are put in place.

(2) “Relevant arrangements” are arrangements designed to ensure—

- (a) that an appropriate written record of each relevant meeting is compiled by the civil servant, or one of the civil servants, attending the meeting,
- (b) that, where an official Ministerial decision is made at a meeting other than a relevant meeting, an appropriate written record of the decision is compiled by a civil servant as soon as reasonably practicable after the decision is first communicated to a civil servant, and
- (c) that the written records mentioned in paragraphs (a) and (b) are retained in accordance with the department’s policy on the retention and disposal of records.

(3) A “relevant meeting” is a pre-arranged meeting set up to conduct official business—

- (a) where those attending include—
  - (i) at least one Minister, and
  - (ii) at least one civil servant serving in the department, or
- (b) where those attending include—
  - (i) at least one special adviser,
  - (ii) at least one civil servant serving in the department, and

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(iii) at least one person who is not a Minister, is not a special adviser and is not a civil servant,

but this is subject to subsection (4).

(4) The following are not relevant meetings—

- (a) a meeting of the Assembly;
- (b) a meeting of any committee of the Assembly other than the Executive Committee of the Assembly;
- (c) a meeting of any sub-committee of the Assembly other than a sub-committee of the Executive Committee of the Assembly;
- (d) a meeting within subsection (3)(a) where the official business does not include anything other than the presence of, or a presentation by, the Minister.

(5) An “official Ministerial decision” is a decision made by a Minister—

- (a) under any statutory provision (as defined by section 1(f) of the Interpretation Act (Northern Ireland) 1954),
- (b) in exercising any of the prerogative or other executive powers of Her Majesty in relation to Northern Ireland, or
- (c) otherwise in the course of official business.

(6) In this section “civil servant” means a person serving in the Northern Ireland Civil Service who is not a special adviser.

### **Presence of civil servants**

7.—(1) A Minister, or special adviser, who holds a meeting with a third party about official business must take such steps as are reasonable to ensure that the meeting is attended by at least one person serving in the Northern Ireland Civil Service who is not a special adviser.

(2) Subsection (1) does not apply if the meeting is for liaison with the Minister’s political party.

(3) In this section “third party” means a person who is not acting in the person’s capacity as—

- (a) a Minister or a Minister of the Crown or a member of the Scottish or Welsh Government or a junior Scottish Minister,
- (b) a Minister of the Government of Ireland,
- (c) a member of—
  - (i) the Assembly,
  - (ii) the House of Commons,
  - (iii) the House of Lords,

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- (iv) the Scottish Parliament,
- (v) Senedd Cymru,
- (vi) Dáil Éireann, or
- (vii) Seanad Éireann,
- (d) a member of the Assembly's staff,
- (e) a person serving in any part of the civil service of the State,
- (f) the Attorney General, or
- (g) a member of the Attorney General's staff.

(4) The duty under subsection (1) applies only so far as it is exercisable in or as regards Northern Ireland.

### **Record of being lobbied**

**8.—(1)** In the event of a Minister or special adviser being lobbied, the Minister or (as the case may be) special adviser must as soon as reasonably practicable provide their department with a written record of the lobbying; and the department must retain the record in accordance with its policy on the retention and disposal of records.

(2) In this section “being lobbied” means to receive personally a communication, either oral or written, on behalf of the person making the communication or another person or persons, relating to—

- (a) the development, adoption or modification of any proposal of the department to seek, make or amend primary or subordinate legislation;
- (b) the development, adoption or modification of any other policy of the department; or
- (c) the making, giving or issuing by the department of, or the taking of any other steps by the department in relation to,—
  - (i) any contract or other agreement,
  - (ii) any grant or other financial assistance, or
  - (iii) any licence or other authorisation.

(3) For the purposes of subsection (2), it does not matter whether the communication occurs in or outwith the United Kingdom.

(4) Nothing in this section shall apply to a communication—

- (a) made in proceedings of the Northern Ireland Assembly or the Executive Committee of the Assembly or any sub-committee of that Committee or any other committee or sub-committee of the Assembly,
- (b) arising in the course of liaison with the Minister's political party or members of the Assembly,

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- (c) made at a meeting attended by a person serving in the Northern Ireland Civil Service who is not a special adviser,
- (d) received personally by a Minister or special adviser after having been first received and recorded by a person serving in the Northern Ireland Civil Service who is not a special adviser, or
- (e) made to a Minister by a member of the public in their capacity as a member of the public, or in their capacity as a community representative, and relating to a matter in which the person making the communication has only the same interest as all other members of the public or all other members of a section of the public.

### **Register of interests**

9.—(1) Within 3 months of this Act coming into effect the Department of Finance must establish, maintain and make available for public inspection a register of interests in respect of Ministers and special advisers for the purpose of recording all such interests as are prescribed in a scheme defining the categories of financial and other interests that are registrable, including gifts and hospitality.

(2) The Minister of Finance must lay the scheme and any revisions thereof before the Assembly as soon as possible after compilation.

(3) All Ministers and special advisers must—

- (a) within 28 days of taking up their post inform the Permanent Secretary of the Department of Finance of their registrable interests, including those of their spouse, partner or close family members; and
- (b) within 28 days of any change to those registrable interests, inform the Permanent Secretary of that change.

(4) For the purposes of subsection (3)(a), two people are partners if—

- (a) they are civil partners of each other, or
- (b) they are not married to, or civil partners of, each other but are living together as if spouses of each other.

(5) For the purposes of subsection (3)(a) “close family member”, in relation to a person, means someone who is—

- (a) a parent, or parent-in-law, of the person,
- (b) a child of the person,
- (c) a whole-blood sibling of the person, or
- (d) the spouse or civil partner of someone within paragraph (b) or (c).

### **Offence of unauthorised disclosure**

10.—(1) Without prejudice to the operation of the Official Secrets Acts 1911 to 1989 and save in the discharge of a statutory obligation or in the lawful pursuit

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of official duties, it shall be an offence for any Minister or special adviser to communicate official information to another for the improper (financial or other) benefit of any person.

(2) In proceedings in respect of a charge against a person (“A”) of the offence under subsection (1), it is a defence for A to show that the course of behaviour was reasonable in the particular circumstances or was in the public interest.

(3) A person is taken to have shown the fact mentioned in subsection (2) if—

- (a) evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (2), and
- (b) the prosecution does not prove beyond reasonable doubt that the course of behaviour is not as described in subsection (2).

(4) A person guilty of an offence under this section is liable on conviction—

- (a) on indictment, to imprisonment for a term not exceeding 2 years;
- (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.

(5) In this section “statutory obligation” means—

- (a) an obligation under a statutory provision, as defined by section 1(f) of the Interpretation Act (Northern Ireland) 1954, or
- (b) an obligation under any legislation for the time being in force in any part of Great Britain or in any country or territory outside the United Kingdom.

### **Accountability to the Assembly: provision of information**

**11.** A Minister and their department have a duty to report to an Assembly committee such information as that committee may reasonably require in order to discharge its functions, being information which—

- (a) has been requested in writing; and
- (b) relates to the statutory functions exercisable by the Minister or their department.

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**Modifications etc. (not altering text)**

- C1** S. 11 restricted (12.4.2024) by [The Windsor Framework \(Implementation\) Regulations 2024 \(S.I. 2024/404\)](#), regs. 1(2), 7(3)

### **Biennial report**

**12.** The First Minister and deputy First Minister, having consulted with the Civil Service Commissioners for Northern Ireland, the Northern Ireland Public Services Ombudsman, the Comptroller and Auditor General for Northern Ireland and the Commissioner for Public Appointments for Northern Ireland,

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and having considered any judgements of the courts relevant to the functioning of government, will—

- (a) lay a report in the Assembly on the functioning of government on a biennial basis, and
- (b) bring forward by statutory provision or other means, as appropriate, proposals to improve the functioning of government.

### **Assembly scrutiny of the Executive's in-year monitoring process**

**13.—**(1) The Minister in charge of a Northern Ireland department, or the department, must provide the relevant Assembly committee with a written or oral briefing on the department's submission to each monitoring round no longer than 7 days following submission to the Department of Finance.

(2) The Department of Finance shall publish the outcome of each monitoring round within 7 days of its being approved by the Executive Committee of the Assembly.

(3) Within 14 days of the publication of the outcome of the monitoring round provided for in subsection (2), the Minister of Finance must lay before the Northern Ireland Assembly a statement specifying the changes to each department's net budget allocation as a result of this exercise.

**Changes to legislation:**

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