



# Northern Ireland (Miscellaneous Provisions) Act 2006

## 2006 CHAPTER 33

### PART 1

#### REGISTRATION OF ELECTORS

##### *Anonymous registration*

#### **1 Power to make provision about anonymous registration**

- (1) An Order in Council under section 84(1) of the 1998 Act (provision with respect to certain electoral matters relating to Northern Ireland) which contains a statement that it is made only for purposes corresponding, or similar, to those of section 10 of the Electoral Administration Act 2006 (c. 22) (anonymous registration) may make provision for Northern Ireland for such purposes in relation to—
  - (a) parliamentary elections, and
  - (b) elections in respect of the Northern Ireland Assembly, the European Parliament and district councils.
- (2) An Order made by virtue of subsection (1) may, if it appears to Her Majesty necessary or expedient for the purposes of the Order—
  - (a) amend the 1983 Act, the 2006 Act, this Act or any other Act (whenever passed) or any Northern Ireland legislation (whenever passed or made);
  - (b) confer power to make provision with respect to any matter—
    - (i) which relates to anonymous registration, and
    - (ii) with respect to which, under the 1983 Act, provision may be made by regulations;
  - (c) make transitional provision.
- (3) In this Part—

“the 1998 Act” means the Northern Ireland Act 1998 (c. 47), and

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“the 1983 Act” means the Representation of the People Act 1983 (c. 2).

*Periodical canvass etc.*

## 2 Abolition of annual canvass

- (1) Amend section 10 of the 1983 Act (maintenance of registers: annual canvass) as follows.
- (2) In subsection (1), after “registration officer” insert “ in Great Britain ”.
- (3) After subsection (1) insert—
  - “(1A) The Chief Electoral Officer for Northern Ireland must conduct a canvass in Northern Ireland in such years as are determined in accordance with section 10ZA.”
- (4) In subsection (2)—
  - (a) for “for any year” substitute “ under subsection (1) or (1A) ”, and
  - (b) for “that year” substitute “ the year in which it is conducted ”.
- (5) In the heading, for “annual canvass” substitute “ duty to conduct canvass ”.

## 3 Timing of canvass

After section 10 of the 1983 Act insert—

### “10ZA Northern Ireland: timing of canvass

- (1) A canvass under section 10(1A) must be conducted in—
  - (a) the year 2010, unless the Secretary of State makes an order providing that the requirement in this paragraph does not apply;
  - (b) every tenth year following 2010.
- (2) A canvass under section 10(1A) must be conducted in an intervening year if—
  - (a) on or before 15th April in that year, the Chief Electoral Officer for Northern Ireland has made a recommendation in favour of a canvass being conducted in that year for the purpose of meeting the relevant registration objectives, and
  - (b) the Secretary of State, having considered the recommendation, has notified the Chief Electoral Officer that he is satisfied that the public interest requires a canvass to be conducted for that purpose.
- (3) If no canvass under section 10(1A) is conducted before the end of 2015, a canvass must be conducted in 2016.
- (4) “Intervening year” means a year other than—
  - (a) 2010,
  - (b) every tenth year following 2010, and
  - (c) if no canvass under section 10(1A) is conducted before the end of 2015, 2016.
- (5) The Secretary of State may not make an order under subsection (1)(a) unless—

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- (a) on or before 15th April 2010, the Chief Electoral Officer for Northern Ireland has made a recommendation against a canvass being conducted in the year 2010 for the purpose of meeting the relevant registration objectives, and
  - (b) the Secretary of State, having considered the recommendation, is satisfied that the public interest does not require a canvass to be conducted for that purpose.
- (6) The power to make an order under subsection (1)(a) is exercisable by statutory instrument.
- (7) No order is to be made under subsection (1)(a) unless a draft of the order has been laid before and approved by a resolution of each House of Parliament.
- (8) “Recommendation” means a written recommendation to the Secretary of State.”

#### 4 The relevant registration objectives

After section 10ZA of the 1983 Act insert—

##### “10ZB The relevant registration objectives (Northern Ireland)

- (1) The relevant registration objectives are to secure, so far as reasonably practicable—
- (a) that every person who is entitled to be registered in a register is registered in it,
  - (b) that no person who is not entitled to be registered in a register is registered in it, and
  - (c) that none of the required information relating to any person registered in a register is false.
- (2) But, in applying subsection (1), the registrations of the persons mentioned in section 10(3) (registrations with which a canvass is not concerned) must be disregarded.
- (3) “Register” means a register maintained by the Chief Electoral Officer for Northern Ireland under section 9.
- (4) “The required information” means the following (as appearing in the register or other records of the Chief Electoral Officer)—
- (a) the person's name;
  - (b) the person's qualifying address;
  - (c) the person's date of birth;
  - (d) subject to subsections (5) and (6), the person's signature;
  - (e) the person's national insurance number or a statement that he does not have one.
- (5) The required information does not include the person's signature if—
- (a) the Chief Electoral Officer has dispensed with the requirement to provide a signature, or
  - (b) other evidence of identity is required (instead of a signature) under a CORE scheme.

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- (6) If under a CORE scheme other evidence is required instead of a signature, the required information includes that evidence.
- (7) “False”, in relation to a signature, means that the signature is not the usual signature of, or was written by a person other than, the person whose signature it purports to be.
- (8) “CORE scheme” has the same meaning as in Part 1 of the Electoral Administration Act 2006.”

## 5 Publication and alteration of registers

- (1) In section 13 of the 1983 Act (publication of registers), for subsection (1) substitute—
  - “(1) Each registration officer must for each year publish a revised version of his registers—
    - (a) if there is a canvass in his area in that year, during the period starting with the end of the canvass in that year and ending with 1st December in that year or such later date as may be prescribed, or
    - (b) if (in Northern Ireland) there is no canvass in that year, on 1st December in that year or by such later date as may be prescribed.”
- (2) In section 13A of the 1983 Act (alteration of registers), in subsection (3)(b), for “section 13(1)” substitute “section 13(1)(a)”.

*Alteration of registers: pending elections*

## 6 Alteration of registers: pending elections

- (1) In section 13B of the 1983 Act (alteration of registers: pending elections), in subsection (4)—
  - (a) at the end of paragraph (a), insert “ in England, Wales or Scotland ”,
  - (b) in paragraph (b), after “elections” insert “ in England, Wales or Scotland ”,
  - (c) at the end of paragraph (d), insert “ and ”, and
  - (d) omit paragraph (e).
- (2) After section 13B of the 1983 Act insert—

### “13BA Alteration of registers in Northern Ireland: pending elections

- (1) An alteration in a published version of a register of electors which takes effect under section 13A(2) after the final nomination day in the case of an election to which this section applies is of no effect for the purposes of that election unless the alteration—
  - (a) is made in consequence of a decision or determination falling within section 13A(1)(c) or (d), and
  - (b) takes effect on or before the fifth day before the date of the poll.
- (2) Subsection (3) applies if—
  - (a) at any time before the appropriate publication date in the case of an election to which this section applies, section 13A applies to the Chief Electoral Officer for Northern Ireland (by virtue of section 13A(1))

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- in connection with a determination or requirement falling within section 13A(1)(a) or (b), and
- (b) no alteration made in consequence of that determination or requirement—
- (i) has already taken effect, or
  - (ii) is due to take effect,
- under section 13A(2) on or before the final nomination day.
- (3) If, no later than the prescribed date, the Chief Electoral Officer is supplied with such additional material supporting the alteration as is prescribed, he must, on the appropriate publication date, issue a notice specifying the appropriate alteration in the register.
- (4) But a person whose entitlement to vote at an election results from an alteration under subsection (3)—
- (a) is not entitled as an elector to an absent vote at that election, and
  - (b) must not be shown in the absent voters list kept for that election under—
    - (i) section 7 of the Representation of the People Act 1985, or
    - (ii) regulation 9 of the European Parliamentary Elections (Northern Ireland) Regulations 2004.
- (5) Subsection (6) applies if—
- (a) at any time before the appropriate publication date in the case of an election to which this section applies, section 13A applies to the Chief Electoral Officer for Northern Ireland (by virtue of section 13A(1)) in connection with a decision or determination falling within section 13A(1)(c) or (d), and
  - (b) no alteration made in consequence of that decision or determination—
    - (i) has already taken effect, or
    - (ii) is due to take effect,under section 13A(2) on or before the fifth day before the date of the poll.
- (6) The Chief Electoral Officer must, on the appropriate publication date, issue a notice specifying the appropriate alteration in the register.
- (7) Subsection (9) applies if—
- (a) at any time on or after the appropriate publication date in the case of an election to which this section applies but before the prescribed time on the day of the poll, section 13A applies to the Chief Electoral Officer for Northern Ireland (by virtue of section 13A(1)), in connection with a notification mentioned in section 13A(1)(c), and
  - (b) in consequence of the notification—
    - (i) an entry relating to that person falls to be made in the register in respect of an address in the relevant election area, or
    - (ii) his entry in the register needs to be altered.
- (8) Subsection (9) also applies if—
- (a) at any time on or after the appropriate publication date in the case of an election to which this section applies but before the prescribed time on the day of the poll, section 13A applies to the Chief Electoral Officer

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- for Northern Ireland (by virtue of section 13A(1)), in connection with a determination falling within section 13A(1)(d),
- (b) the determination was made following a representation made by or on behalf of a person to the Chief Electoral Officer, and
  - (c) in consequence of the determination—
    - (i) an entry relating to that person falls to be made in the register in respect of an address in the relevant election area, or
    - (ii) his entry in the register needs to be altered.
- (9) The Chief Electoral Officer must, when—
- (a) he receives the notification referred to in subsection (7), or
  - (b) he makes the determination referred to in subsection (8),
- issue a notice specifying the appropriate alteration in the register.
- (10) In subsection (8)(b), “representation” means a representation made in accordance with prescribed requirements to the effect that the register contains a clerical error.
- (11) A notice under subsection (3), (6) or (9)—
- (a) is to be issued in the prescribed manner, and
  - (b) takes effect from the beginning of the day on which it is issued.
- (12) This section applies to—
- (a) parliamentary elections in Northern Ireland,
  - (b) elections in Northern Ireland to the European Parliament, and
  - (c) elections to the Northern Ireland Assembly.
- (13) Subsections (5) and (6) of section 13B apply for the purposes of this section as they apply for the purposes of that section.”

### *Data collection*

## 7 **Data collection**

- (1) Amend Schedule 2 to the 1983 Act (provisions which may be contained in regulations as to registration etc.) as follows.
- (2) For paragraph 1(4A) and (4B) substitute—
- “(4A) Provision authorising or requiring any such authority or person, for the purpose mentioned in sub-paragraph (4B), to provide the Chief Electoral Officer for Northern Ireland, at such times or in such circumstances as may be prescribed, with information contained in such records.
- (4B) The purpose is assisting the Chief Electoral Officer to meet the relevant registration objectives, and, in particular, assisting him—
- (a) to ascertain to what extent the relevant registration objectives are being met;
  - (b) to determine what steps should be taken for meeting those objectives.”
- (3) After paragraph 1(5) insert—

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- “(6) But provision made under sub-paragraph (4A) may not permit information obtained under those provisions to be disclosed to a third party except—
- (a) for the purpose mentioned in sub-paragraph (4B);
  - (b) for the purposes of any criminal or civil proceedings.
- (7) In sub-paragraph (4B) “the relevant registration objectives” has the meaning given by section 10ZB.
- (8) In sub-paragraph (6) “third party” means a person other than a person to whom the Chief Electoral Officer for Northern Ireland may delegate his functions.”
- (4) After paragraph 11A(1) insert—
- “(1A) Sub-paragraph (1) is subject to paragraph 1(6).”
- (5) After paragraph 13(1) insert—
- “(1ZA) Provisions making it an offence (punishable on summary conviction by a fine not exceeding level 5 on the standard scale) for a person to disclose information in contravention of paragraph 1(6).”

## PART 2

### THE CHIEF ELECTORAL OFFICER

#### 8 Tenure

- (1) The Chief Electoral Officer—
- (a) is appointed by the Secretary of State, and
  - (b) subject to what follows, holds office in accordance with the terms of his appointment (or re-appointment).
- (2) A person must not be appointed as Chief Electoral Officer for more than 5 years at a time.
- (3) The period for which a person holds office as Chief Electoral Officer must not exceed 10 years.
- (4) The Chief Electoral Officer may resign by notice in writing to the Secretary of State.
- (5) The Secretary of State may dismiss the Chief Electoral Officer if satisfied that—
- (a) he has without reasonable excuse failed to discharge his functions for a continuous period of 3 months beginning not earlier than 6 months before the day of dismissal,
  - (b) he has been convicted of an offence,
  - (c) a bankruptcy order has been made against him, or his estate has been sequestrated, or he has made a composition or arrangement with, or granted a trust deed for, his creditors, or
  - (d) he is unable or unfit to carry out his functions.
- (6) This section applies in relation to the person who at commencement holds the office of Chief Electoral Officer as if—

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- (a) subsection (2) required his appointment to end no later than 5 years after commencement, and
  - (b) the total period which under subsection (3) must not be exceeded were 10 years plus the period of his appointment before commencement.
- (7) “Commencement” means the commencement of this section.
- (8) In this Part “Chief Electoral Officer” has the meaning given by section 14(1) of the Electoral Law Act (Northern Ireland) 1962 (c. 14 (N. I.)).

## 9 Annual reports

- (1) The Chief Electoral Officer must each year—
- (a) prepare a report on how he has discharged his functions in the year to which the report relates, and
  - (b) send a copy of the report to the Secretary of State by such date as the Secretary of State directs.
- (2) The report must include an assessment of the extent to which the relevant registration objectives in Northern Ireland have been met in the year to which the report relates.
- (3) “The relevant registration objectives” has the meaning given by section 10ZB of the Representation of the People Act 1983 (c. 2).
- (4) The Secretary of State must lay a copy of the report before each House of Parliament.

## PART 3

### DONATIONS FOR POLITICAL PURPOSES

## 10 Introduction

- (1) In this Part—
- “the 2000 Act” means the Political Parties, Elections and Referendums Act 2000 (c. 41), and
  - “the 1983 Act” means the Representation of the People Act 1983.
- (2) In this Part—
- (a) section 11 comes into force at the end of the period of two months beginning with the day on which this Act is passed,
  - (b) sections 12 to 14 and Schedule 1 come into force on 1st November 2007, and
  - (c) section 15 comes into force at the end of the period of two months beginning with the day on which this Act is passed.

## 11 Part 4 of the 2000 Act: the final disapplication period

- (1) Sections 50 to 69 of, and Schedule 6 to, the 2000 Act (donations to political parties) do not apply in relation to any Northern Ireland party during the final disapplication period.
- (2) “The final disapplication period” means the period—
- (a) starting with the day on which this section comes into force, and



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- (b) ending with 31st October 2007.
- (3) Paragraphs 2 to 15 of Schedule 7 to the 2000 Act (donations to individuals and members associations) do not apply during the final disapplication period in relation to any regulated donee who is—
- (a) an individual ordinarily resident in Northern Ireland, or
  - (b) a members association wholly or mainly consisting of members of a Northern Ireland party.
- (4) Section 54(2)(c) of the 2000 Act has effect in relation to any donation received during the final disapplication period by—
- (a) a Great Britain party, or
  - (b) a regulated donee who is resident or carries on activities in Great Britain, as if it referred to a Great Britain party only.
- (5) References in Schedule 2A to the 1983 Act to a permissible donor falling within section 54(2) are to be read, in relation to any donation received during the final disapplication period by a candidate at an election in Great Britain, as not including a Northern Ireland party.
- (6) In this section—
- “Great Britain party” means a party registered in the Great Britain register (as defined by section 23(2) of the 2000 Act),
  - “Northern Ireland party” means a party registered in the Northern Ireland register (as defined by that section), and
  - “regulated donee” and “members association” have the same meaning as in Schedule 7 to the 2000 Act.
- (7) The reference in subsection (4)(b) to Great Britain includes the combined region (as defined by section 160(1) of the 2000 Act).
- (8) The following provisions cease to have effect—
- (a) in the 2000 Act—
    - (i) section 42(5),
    - (ii) Chapter 4 of Part 4,
    - (iii) section 156(4)(d),
    - (iv) in Schedule 7, paragraphs 1(10) and (11) and 16, and
  - (b) in Schedule 2A to the 1983 Act, paragraph 1(7).
- (9) In section 159A(a) of the 2000 Act (functions that are not exercisable by Lord Chancellor as well as by Secretary of State), for “, 18(2) and (4) and 70” substitute “and 18(2) and (4)”.

## **12 Extension of categories of permissible donors**

In Part 4 of the 2000 Act, after Chapter 5 insert—

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## “CHAPTER 6

### SPECIAL PROVISION IN CONNECTION WITH NORTHERN IRELAND

#### 71A Introduction

- (1) The following provisions have effect for the interpretation of this Chapter.
- (2) “Northern Ireland recipient” means—
  - (a) a party registered in the Northern Ireland register, or
  - (b) a regulated donee who is—
    - (i) an individual ordinarily resident in Northern Ireland, or
    - (ii) a members association wholly or mainly consisting of members of a Northern Ireland party.
- (3) “Regulated donee” and “members association” have the same meaning as in Schedule 7.
- (4) “Prescribed” means prescribed by an order made by the Secretary of State after consulting the Commission.

#### 71B Extension of categories of permissible donors in relation to Northern Ireland recipients

- (1) In relation to a donation to a Northern Ireland recipient, section 54(2) has effect as if the following were also permissible donors—
  - (a) an Irish citizen in relation to whom any prescribed conditions are met;
  - (b) a body which is of a prescribed description or category and in relation to which any prescribed conditions are met.
- (2) A description or category of body must not be prescribed for the purposes of subsection (1)(b) unless the Secretary of State is satisfied that a body of that description or category would be entitled under Irish law to donate to an Irish political party.
- (3) In relation to a donation in the form of a bequest subsection (1)(a) is to be read as referring to an individual—
  - (a) who at any time within the period of five years ending with the date of his death was an Irish citizen, and
  - (b) in relation to whom, at the time of his death, any prescribed conditions were met.

#### 71C Northern Ireland recipients not permissible donors in relation to Great Britain

- (1) In relation to a donation received by—
  - (a) a registered party which is registered in the Great Britain register, or
  - (b) a regulated donee resident or carrying on activities in Great Britain,
 section 54(2) has effect as if it did not include a party registered in the Northern Ireland register.

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(2) The reference in subsection (1)(b) to Great Britain includes the combined region.”

### 13 Section 12: supplementary

(1) In section 156(4) of the 2000 Act (orders and regulations—powers subject to affirmative procedure), after paragraph (c) insert—

“(ca) any provision of Chapter 6 of Part 4;”.

(2) <sup>F1</sup>.....

(3) In Schedule 2A to the 1983 Act (control of donations to candidates), after paragraph 1(6) insert—

“(6A) In relation to a donation received by a candidate at an election in Great Britain, references to a permissible donor falling within section 54(2) of the 2000 Act are to be read as if section 54(2) did not include a party registered in the Northern Ireland register maintained by the Commission under Part 2 of that Act.”

#### Textual Amendments

**F1** S. 13(2) repealed (1.7.2008) by [The Electoral Administration Act 2006 \(Regulation of Loans etc: Northern Ireland\) Order 2008 \(S.I. 2008/1319\)](#), [art. 4\(3\)](#)

### 14 Modifications during prescribed period

(1) During the prescribed period, the 2000 Act applies in relation to Northern Ireland subject to the modifications in Schedule 1.

(2) “The prescribed period” means the period—  
(a) starting with 1st November 2007, and  
(b) ending with 31st October 2010.

(3) The Secretary of State may by order amend paragraph (b) of subsection (2) so as to extend the prescribed period.

(4) The power to make an order under subsection (3) may be exercised on more than one occasion, but the prescribed period must not be extended for more than 2 years at a time.

(5) The power to make an order under subsection (3) is exercisable by statutory instrument.

(6) No order is to be made under subsection (3) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.

### 15 Power to make provision in connection with permissible donors

(1) The Secretary of State may, after consulting the Electoral Commission, by order make provision, in relation to any time occurring on or after 1st November 2007, in connection with the provision made by—

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- (a) sections 12 and 13, or
  - (b) section 14 and Schedule 1.
- (2) The provision that may be made under subsection (1) includes provision amending or modifying—
- (a) any provision of the 2000 Act;
  - (b) Schedule 2A to the 1983 Act;
  - (c) any other enactment connected with permissible donors or donations for political purposes.
- (3) The provision that may be made under subsection (1) also includes provision amending—
- (a) section 71C of the 2000 Act (as inserted by section 12), and
  - (b) paragraph 1(6A) of Schedule 2A to the 1983 Act (as inserted by section 13),
- so that they refer to a Northern Ireland recipient instead of referring to a party registered in the Northern Ireland register.
- (4) The power to make an order under subsection (1) is exercisable by statutory instrument.
- (5) No order is to be made under subsection (1) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.

## PART 4

### DEVOLUTION OF POLICING AND JUSTICE ETC.

#### 16 Conditions for devolving policing and justice matters

- (1) Amend section 4 of the 1998 Act (transferred, excepted and reserved matters) as follows.
- (2) In subsection (2), for “subsection (3)” substitute “ subsections (2A) and (3) ”.
- (3) After subsection (2) insert—
- “(2A) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending Schedule 3 so that a [F<sup>2</sup>policing and justice matter]<sup>F2</sup> ceases to be a reserved matter unless—
- (a) a motion for a resolution praying that the matter should cease to be a reserved matter is tabled by the First Minister and the deputy First Minister acting jointly; and
  - (b) the resolution is passed by the Assembly with the support of a majority of the members voting on the motion, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.”
- (4) In subsection (3), for “the draft of an Order before Parliament under subsection (2)” substitute “ before Parliament under subsection (2) the draft of any other Order ”.
- (5) After subsection (5) insert—

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“(6) In this section [F3 “policing and justice matter”] F3 means a matter falling within a description specified in—12

- (a) any of paragraphs 9 to 12, 14A to 15A and 17 of Schedule 3; or
- (b) any other provision of that Schedule designated for this purpose by an order made by the Secretary of State.”

(6) In this Part “the 1998 Act” means the Northern Ireland Act 1998 (c. 47).

#### Textual Amendments

- F2** Words in s. 16(3) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(5), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2
- F3** Words in s. 16(5) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(6), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

## 17 Department with policing and justice functions

(1) After section 21 of the 1998 Act insert—

### “21A Northern Ireland department with policing and justice functions

[F4(1) An Act of the Assembly that—

- (a) establishes a new Northern Ireland department; and
- (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions,

may (but need not) make provision of the kind mentioned in subsection (3), (4), (5) or (5A).]

F4(3) The Act may provide for the department to be in the charge of a Northern Ireland Minister appointed by virtue of a nomination—

- (a) made by the First Minister and the deputy First Minister acting jointly; and
- (b) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

(4) The Act may provide for the department to be in the charge of two Northern Ireland Ministers acting jointly.

(5) The Act may provide—

- (a) for the department to be in the charge of a Northern Ireland Minister who is supported by a junior Minister; and
- (b) for the persons holding those offices to rotate at intervals determined by or under the Act, so that the person who was the Minister in charge of the department becomes the junior Minister and the person who was the junior Minister becomes the Minister.

*Status: Point in time view as at 12/04/2010.*

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- [<sup>F5</sup>(5A) The Act may provide—
- (a) for the department to be in the charge of a Northern Ireland Minister elected by the Assembly; and
  - (b) for that Minister to be supported by a deputy Minister elected by the Assembly.]
- <sup>F5</sup>(6) There must not, at any time, be more than one department in relation to which provision of the kind mentioned in any of subsections (3), (4) [<sup>F6</sup>, (5) and (5A)]<sup>F6</sup> is made by Act of the Assembly [<sup>F7</sup>, or by Order in Council under subsection (7C)]<sup>F7</sup>.
- (7) Schedule 4A (provisions relating to a department with devolved policing and justice functions) shall have effect.
- [<sup>F8</sup>(7A) If it appears to the Secretary of State that there is no reasonable prospect that the Assembly will pass an Act of the kind described in subsection (1)(a) and (b), he may lay before Parliament the draft of an Order in Council which—
- (a) establishes a new Northern Ireland department;
  - (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions;
  - (c) provides for the department to be in the charge of a Northern Ireland Minister elected by the Assembly and for that Minister to be supported by a deputy Minister elected by the Assembly; and
  - (d) provides for Part 3A of Schedule 4A to apply in relation to the department (with any necessary modifications).
- (7B) The draft of an Order laid before Parliament under subsection (7A) may contain supplementary, incidental, consequential, transitional or saving provision.
- (7C) If the draft of an Order laid before Parliament under subsection (7A) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.
- (7D) No more than one department may be established by virtue of an Order under subsection (7C).]
- <sup>F8</sup>(8) In this section “devolved policing and justice function” means a function relating to a matter which—
- (a) is a transferred matter by virtue of an Order under section 4; and
  - (b) immediately before the matter became a transferred matter, was a [<sup>F9</sup>policing and justice matter]<sup>F9</sup> (within the meaning given by section 4(6)).”
- (2) After Schedule 4 to the 1998 Act insert the Schedule 4A set out in Schedule 2 to this Act.

#### Textual Amendments

- F4** Words in s. 17(1) substituted (11.3.2009) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 44\(2\), 53; S.I. 2009/446, art. 3](#)

*Status: Point in time view as at 12/04/2010.*

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- F5** Words in s. 17(1) inserted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 44(3), 53; S.I. 2009/446, art. 3**
- F6** Words in s. 17(1) substituted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 44(4)(a), 53; S.I. 2009/446, art. 3**
- F7** Words in s. 17(1) inserted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 44(4)(b), 53; S.I. 2009/446, art. 3**
- F8** Words in s. 17(1) inserted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 44(5), 53; S.I. 2009/446, art. 3**
- F9** Words in s. 17(1) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 18(7), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

## **18 Power of Assembly to call for witnesses and documents**

In section 44 of the 1998 Act (power to call for witnesses and documents), after subsection (4) insert—

“(4A) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a function which relates to a matter which is a transferred matter by virtue of an Order under section 4.

For this purpose “relevant period” means a period when the matter was not a transferred matter.

(4B) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a statutory function which—

- (a) is exercisable by a Minister or a Northern Ireland department; but
- (b) was at any time exercisable by a Minister of the Crown.

For this purpose “relevant period” means a period when the statutory function was exercisable by a Minister of the Crown.”

## **19 Provision for transfer of functions relating to extradition etc.**

After section 86 of the 1998 Act insert—

### **“86A Provision for transfer of functions relating to extradition etc.**

(1) Her Majesty may by Order in Council make provision amending—

- (a) the Crime (International Co-operation) Act 2003; or
- (b) the Extradition Act 2003,

for the purpose of transferring to a Minister or a Northern Ireland department, with effect from any date specified in the Order, any relevant function under the Act.

(2) In subsection (1) “relevant function” means a function which, immediately before the date specified in the Order,—

- (a) is exercisable by a Minister of the Crown; and
- (b) is exercisable in relation to Northern Ireland.

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- (3) An Order under subsection (1) may make provision, to such extent as may appear to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, the Order—
  - (a) for transferring or apportioning any property, rights or liabilities;
  - (b) for substituting any body or person for any other body or person in any charter, contract or other document or in any legal proceedings;
  - (c) for any other transitional or consequential matter.
- (4) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.”

## 20 **Provision for entrenching enactments**

After section 86A of the 1998 Act insert—

### “86B Provision for entrenching enactments

- (1) Her Majesty may by Order in Council make provision amending section 7 so as to provide for—
  - (a) enactments to become entrenched; or
  - (b) enactments that are entrenched by virtue of an Order under paragraph (a) to cease to be entrenched.
- (2) For the purposes of this section an enactment is entrenched if section 7 prevents it from being modified by an Act of the Assembly or subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department.
- (3) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.”

## PART 5

### MISCELLANEOUS

## 21 **Arms decommissioning: extension of amnesty period**

In section 2(3)(b) of the Northern Ireland Arms Decommissioning Act 1997 (c. 7) (date by which amnesty period must end), for “2007” substitute “2010”.

## 22 **Loans to Consolidated Fund of Northern Ireland: increase of limits**

- (1) Amend section 1 of the Northern Ireland (Loans) Act 1975 (c. 83) as follows.
- (2) In subsection (2) (limit on loans to the Consolidated Fund of Northern Ireland), for “£2,000 million” substitute “£3,000 million”.
- (3) In subsection (5) (power to increase the limit by order)—
  - (a) omit “, on not more than one occasion,”,



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- (b) for “the limit in subsection (2)” substitute “ the limit for the time being specified in subsection (2) ”, and
- (c) for “£300 million” substitute “ £500 million ”.

## **23 Single wholesale electricity market**

- (1) Her Majesty may by Order in Council make provision for giving effect to any agreement or arrangement—
  - (a) which has been entered into between Her Majesty's Government and the Government of Ireland,
  - (b) which relates to the establishment or operation of a single wholesale electricity market in Northern Ireland and Ireland, and
  - (c) a copy of which has been presented to Parliament by the Secretary of State by command of Her Majesty.
- (2) An Order in Council under this section may—
  - (a) amend, repeal or revoke any provision made by or under an Act of Parliament or Northern Ireland legislation (whenever passed or made);
  - (b) confer powers on bodies or persons specified in, or appointed under or by virtue of, the Order, including powers to make statutory rules (within the meaning of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)));
  - (c) create offences under the law of Northern Ireland;
  - (d) make provision which applies generally or only in specified cases or circumstances;
  - (e) make different provision for different cases or circumstances;
  - (f) make such consequential, incidental, supplementary or transitional provision as appears to Her Majesty to be necessary or expedient.
- (3) Where an Order in Council under this section creates an offence, it must make provision as to the mode of trial and punishment of offenders; but there is no power for the Order—
  - (a) to impose a maximum term of imprisonment, on summary conviction, of more than three months;
  - (b) to impose a maximum fine, on summary conviction, of more than the statutory maximum; or
  - (c) to impose a maximum term of imprisonment, on conviction on indictment, of more than two years.
- (4) No recommendation is to be made to Her Majesty to make an Order under this section unless a draft of the Order has been laid before and approved by resolution of each House of Parliament.

## **24 Financial assistance for energy purposes**

For Article 61 of the Energy (Northern Ireland) Order 2003 (S.I. 2003/419 (N.I. 6)) substitute—

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## “61 Financial assistance for energy purposes

- (1) The Department may give financial assistance to any person if, in the opinion of the Department—
  - (a) the form and amount of the assistance is reasonable having regard to all the circumstances; and
  - (b) the giving of the assistance is likely to achieve one or more of the purposes set out in paragraph (2).
- (2) Those purposes are—
  - (a) to secure a diverse and viable long-term energy supply;
  - (b) to promote the development and maintenance of an efficient, economic and co-ordinated gas industry in Northern Ireland;
  - (c) to promote efficiency and economy on the part of persons engaged in the generation, production, transmission, distribution or supply of energy;
  - (d) to promote the efficient use of energy;
  - (e) to promote the development or the bringing into use of—
    - (i) energy from renewable sources, or
    - (ii) technologies for the production of energy from such sources;
  - (f) to promote research and development in relation to other matters connected with energy supply;
  - (g) to promote the generation, production, transmission, distribution or supply of energy from renewable sources;
  - (h) to promote the production, distribution or use of renewable transport fuels;
  - (i) to limit or reduce emissions of greenhouse gases, or other effects on the environment, resulting from the generation, production, transmission, distribution, supply or use of energy;
  - (j) to conduct research, or to raise awareness, about matters referred to in sub-paragraph (i);
  - (k) any other purpose prescribed by regulations made by the Department with the approval of the Department of Finance and Personnel.
- (3) Financial assistance under this Article may be given—
  - (a) in respect of particular activities carried on or supported by the recipient; or
  - (b) generally in respect of all or some part of the activities carried on or supported by the recipient.
- (4) Financial assistance under this Article shall be given—
  - (a) in such form, and
  - (b) subject to such conditions,
 as the Department considers appropriate.
- (5) Without prejudice to the generality of paragraph (4), financial assistance under this Article may be given in one or more of the following forms—
  - (a) by making grants (whether or not repayable) or loans;
  - (b) by giving indemnities;

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- (c) by making investments in bodies corporate;
  - (d) by incurring expenditure for the benefit of a person;
  - (e) by providing services, staff or equipment for the benefit of a person.
- (6) Without prejudice to the generality of paragraph (4), financial assistance under this Article may be given subject to conditions—
- (a) as to repayment;
  - (b) requiring payments to be made to the Department (which need not be limited by reference to the value of the assistance given).
- (7) In this Article—
- “greenhouse gases” has the meaning given by section 82(9) of the Energy Act 2004;
  - “renewable sources” means sources of energy other than fossil fuel, peat or nuclear fuel, and includes waste (and for this purpose, “fossil fuel” and “peat” have the meaning given by Article 52(7));
  - “renewable transport fuel” means—
    - (a) liquid or gaseous fuel that is produced wholly or mainly from biomass; or
    - (b) any other description of fuel specified in an order made by the Department;
- and for this purpose “biomass” means the biodegradable portion of a specified product, waste or residue.”

## **25 Sustainable development**

- (1) A public authority must, in exercising its functions, act in the way it considers best calculated to contribute to the achievement of sustainable development in Northern Ireland, except to the extent that it considers that any such action is not reasonably practicable in all the circumstances of the case.
- (2) For this purpose—
- (a) a public authority must have regard to any strategy or guidance relating to sustainable development issued by the Department of the Environment, and
  - (b) a public authority other than a Northern Ireland department must have regard to any guidance relating to sustainable development issued by a Northern Ireland department other than the Department of the Environment.
- (3) In this section “public authority” means—
- (a) a Northern Ireland department,
  - (b) a district council in Northern Ireland, and
  - (c) any other person designated for the purposes of this section by order made by the Office of the First Minister and deputy First Minister.
- (4) The power to make an order under subsection (3)(c) is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I. 1979/1573 (N.I. 12)).
- (5) Such an order may not be made unless a draft of the order has been laid before, and approved by a resolution of, the Northern Ireland Assembly.

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## **26 Extension to Northern Ireland of provisions of SOCAP 2005**

- (1) Sections 60 to 67, 69 and 70 of the Serious Organised Crime and Police Act 2005 (c. 15) (investigatory powers of DPP etc.) extend to Northern Ireland.
- (2) Schedule 3 contains amendments of that Act in connection with subsection (1).

## **27 Responsibilities in relation to the health and safety etc. of police**

- (1) In Article 47A of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)) (application of Part II of that Order to police) after paragraph (2) insert—

“(2A) For the purposes of this Part, the relevant officer, as defined by paragraph (2) (a) or (c), shall be treated as a corporation sole.

(2B) Where, in a case in which the relevant officer, as so defined, is guilty of an offence by virtue of this Article, it is proved—

- (a) that the officer-holder personally consented to the commission of the offence,
- (b) that he personally connived in its commission, or
- (c) that the commission of the offence was attributable to personal neglect on his part,

the office-holder (as well as the corporation sole) shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly.

(2C) In paragraph (2B) “the office-holder”, in relation to the relevant officer, means an individual who, at the time of the consent, connivance or neglect—

- (a) held the office or other position mentioned in paragraph (2) as the office or position of that officer; or
- (b) was for the time being responsible for exercising and performing the powers and duties of that office or position.

(2D) The provisions mentioned in paragraph (2E) (which impose the same liability for unlawful conduct of constables on persons having their direction or control as would arise if the constables were employees of those persons) do not apply to any liability by virtue of this Part.

(2E) Those provisions are—

- (a) paragraph 7(1) of Schedule 8 to the Police Act 1997;
- (b) section 27(8) of the Police (Northern Ireland) Act 1998;
- (c) section 29(1) of that Act;
- (d) section 28 of the Serious Organised Crime and Police Act 2005.’’

- (2) For paragraph (2) of each of the following Articles of the Employment Rights (Northern Ireland) Order 1996 (S.I. 1996/1919 (N.I. 16))—

- (a) Article 72A (right of police officers not to suffer detriment in relation to health and safety issues), and
- (b) Article 169A (right of police officers not to be unfairly dismissed in relation to health and safety issues),

substitute the paragraph set out in subsection (3).

- (3) The paragraph to be substituted is—

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“(2) In this Article “the relevant officer”, in relation to a person holding the office of constable, means the person who under Article 47A of the Health and Safety at Work (Northern Ireland) Order 1978 is to be treated as his employer for the purposes of Part II of that Order.”

- (4) The amendments made by subsections (1) to (3) have effect for the purposes of any proceedings in or before a court or tribunal that are commenced on or after the day on which this Act is passed as if the amendments had come into force on 1st July 1998.
- (5) For the purposes of proceedings commenced against a person in his capacity by virtue of this section as a corporation sole, anything done by or in relation to that person before the passing of this Act shall be deemed to have been done by or in relation to that person in that capacity.
- (6) No person shall be liable by virtue of Article 47A(2B) of the Health and Safety at Work (Northern Ireland) Order 1978 (S.I. 1978/1039 (N.I. 9)) in respect of anything occurring before the passing of this Act.

**F10 28 Duty to fill judicial vacancies**

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**Textual Amendments**

**F10** S. 28 omitted (12.4.2010) by virtue of Northern Ireland Act 2009 (c. 3), s. 5(7), Sch. 5 para. 9; S.I. 2010/812, art. 2

**PART 6**

SUPPLEMENTARY

**29 Financial provisions**

- (1) There shall be paid out of money provided by Parliament any increase attributable to this Act in the sums payable by virtue of any other Act out of money provided by Parliament.
- (2) There shall be paid out of the Consolidated Fund any increase attributable to this Act in the sums payable by virtue of any other Act out of that Fund.

**30 Minor and consequential amendments etc.**

- (1) Schedule 4 contains minor and consequential amendments.
- (2) Schedule 5 contains repeals and revocations.
- (3) The Secretary of State may by order made by statutory instrument make supplementary, incidental, consequential, transitional or saving provision for the purposes of, in consequence of, or for giving full effect to, any provision of Part 1.
- (4) An order under subsection (3) may, in particular—

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- (a) provide for a provision of Part 1 which comes into force before another provision of Part 1 or of the Electoral Administration Act 2006 (c. 22) has come into force to have effect, until the other provision has come into force, with specified modifications;
  - (b) amend, repeal or revoke any enactment passed or made on or before the last day of the session in which this Act is passed.
- (5) “Enactment” includes any provision of Northern Ireland legislation or subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)) and any provision of Part 1 of Schedule 4.
- (6) No order is to be made under subsection (3) unless a draft of the instrument containing the order has been laid before and approved by a resolution of each House of Parliament.

#### Commencement Information

- II** [S. 30](#) partly in force; [s. 30\(3\)-\(6\)](#) in force at Royal Assent see [s. 31\(1\)\(i\)](#); [s. 30\(1\)](#) in force for certain purposes at 16.10.2006 by [S.I. 2006/2688](#), [art. 2](#); in force for certain purposes at 1.12.2006 by [S.I. 2006/2688](#), [art. 3](#); in force for certain purposes at 14.5.2008 by [S.I. 2008/1318](#), [art. 2\(c\)](#); [s. 30\(1\)](#) in force for certain purposes at 11.3.2009 by [S.I. 2009/448](#), [art. 2\(f\)](#)

### 31 Commencement

- (1) The following come into force on the day on which this Act is passed—
- (a) section 1;
  - (b) section 10;
  - (c) section 22;
  - (d) section 23;
  - (e) section 24;
  - (f) section 27;
  - (g) section 28;
  - (h) section 29;
  - (i) section 30(3) to (6);
  - (j) this section;
  - (k) section 32;
  - (l) section 33.
- (2) Part 3 (apart from section 10, but including Schedule 1) comes into force as mentioned in section 10(2).
- (3) Subject to subsection (4), the other provisions of this Act come into force on such day as the Secretary of State may appoint by order made by statutory instrument.
- (4) Any repeals or revocations in Schedule 5 come into force in the same way as any provision of this Act to which they relate.
- (5) Different days may be appointed under subsection (3) for different purposes.
- (6) The Secretary of State may by order made by statutory instrument make transitory or transitional provision or savings in connection with the coming into force of any provision of this Act.

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#### **Subordinate Legislation Made**

- P1** S. 31(3) power partly exercised; 16.10.2006 and 1.12.2006 appointed for specified provisions and purposes by {S.I. 2006/2688}, arts. 2, 3; 1.12.2006 and 31.3.2007 appointed for specified provisions by {S.I. 2006/2966}, arts. 2, 3; 10.12.2006 appointed for specified provisions by {S.I. 2006/3263}, art. 2; 14.5.2008 appointed for specified provisions and purposes by {S.I. 2008/1318}, art. 2; 11.3.2009 appointed for specified provisions and purposes by {S.I. 2009/448}, art. 2

### **32 Extent**

- (1) The extent of any amendment or repeal made by this Act is the same as that of the enactment amended or repealed.
- (2) But the amendments and repeals made by Schedule 3 (and Schedule 5 so far as relating to that Schedule) extend to England and Wales and Northern Ireland only.
- (3) Section 25 extends to Northern Ireland only.

### **33 Short title**

This Act may be cited as the Northern Ireland (Miscellaneous Provisions) Act 2006.

**Status:**

Point in time view as at 12/04/2010.

**Changes to legislation:**

Northern Ireland (Miscellaneous Provisions) Act 2006 is up to date with all changes known to be in force on or before 15 July 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations.