

**Changes to legislation:** *The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 is up to date with all changes known to be in force on or before 23 April 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. (See end of Document for details) View outstanding changes*

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## EXPLANATORY NOTE

*(This note is not part of the Order)*

This Order amends certain statutory provisions and makes other provision in consequence of, or for giving full effect to, the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010. That Order amends Schedule 3 to the Northern Ireland Act 1998 (“the 1998 Act”) so that certain policing and justice matters (as defined in section 4(6) of the 1998 Act) cease to be reserved matters and become transferred matters.

Part 1 to the Order contains introductory provisions, dealing in particular with commencement and extent and defining terms used in the Order.

Part 2 makes provision consequential on devolution to the Northern Ireland Assembly of legislative power in relation to policing and justice matters. It provides for the transfer of policing and justice functions from the Secretary of State to the Northern Ireland Department of Justice; it makes provision for some functions to be split between the Secretary of State and the Department of Justice; it also makes provision consequential on the transfers.

Article 4 and Schedule 1 transfer to the Department of Justice functions of the Secretary of State immediately before the coming into force of the Order under the enactments listed in Schedule 1. Schedule 2 makes amendments to those enactments consequential on the transfer of functions under Schedule 1, including in particular in relation to the procedure for laying instruments and other documents before the Northern Ireland Assembly.

Article 5 and Schedule 3 transfer functions in relation to policing; in particular Schedule 3 contains amendments to the Public Order (Northern Ireland) Order 1987, the Police Act 1996, the Police (Northern Ireland) Act 1998, the Police (Northern Ireland) Act 2000, the Police (Northern Ireland) Act 2003, various policing regulations and the Civil Contingencies Act 2004.

Article 6 and Schedules 4 to 8 transfer functions relating to the treatment of offenders. Schedule 4 deals with prisons and amends the Prison Act (Northern Ireland) 1953, the Prison and Young Offenders Centre Rules (Northern Ireland) 1995, the Regulation of Investigatory Powers Act 2000 and orders made under section 25 or 30 of that Act. Schedule 5 deals with provisions relating to the release of prisoners on licence and amends the Life Sentences (Northern Ireland) Order 2001, the Criminal Justice (Northern Ireland) Order 2008 and the Parole Commissioners’ Rules (Northern Ireland) 2009. Schedule 6 is concerned with miscarriages of justice and the Royal prerogative of mercy and amends the Criminal Justice Act 1988 and the Criminal Appeal Act 1995. Schedule 7 amends the Criminal Justice and Public Order Act 1994. Schedule 8 deals with the transfer of prisoners and amends the Repatriation of Prisoners Act 1984 and the Crime (Sentences) Act 1997.

Article 7 and Schedule 9 transfer functions under the Corporate Manslaughter and Corporate Homicide Act 2007.

Article 8 and Schedule 10 transfer functions under the Serious Crime Act 2007.

Article 9 and Schedule 11 transfer functions in relation to firearms and amend the Firearms (Northern Ireland) Order 2004 and the Violent Crime Reduction Act 2006.

Article 10 and Schedule 12 make provision in relation to explosives. Paragraphs 1 and 2 respectively of Schedule 12 transfer functions of the Secretary of State under certain provisions of the Explosives Act 1875 and the Explosives Act (Northern Ireland) 1970 to the Department of Justice. Paragraph 3 amends the Health and Safety at Work (Northern Ireland) Order 1978. Paragraph 4 makes provision for the continuing exercise by the Secretary of State of certain functions that are transferred to the

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Department of Justice for purposes connected with the reserved matters of firearms and explosives and import and export controls.

Article 11 and Schedule 13 amend the Justice (Northern Ireland) Act 2002.

Article 12 and Schedule 14 amend a substantial number of Acts and Orders relating to criminal justice.

Article 13 and Schedule 15 transfer functions under the Serious Organised Crime and Police Act 2005.

Article 14 and Schedule 16 transfer functions under the Private Security Industry Act 2001.

Article 15 and Schedules 17 and 18 provide for the transfer of functions of the Lord Chancellor and other related functions. Article 15(1) and Schedule 17 transfer functions of the Lord Chancellor listed in Schedule 17 to the Department of Justice. Article 15(2) and (3) transfer certain functions of the Lord Chancellor under the Justice (Northern Ireland) Act 2002 to respectively the First Minister and deputy First Minister, acting jointly and the Office of the First Minister and deputy First Minister. Article 15(4) transfers listed functions of the Treasury or the Minister for the Civil Service to the Northern Ireland Department of Finance and Personnel. Schedule 18 transfers other functions.

Article 16 and Schedule 19 make amendments relating to public bodies. The enactments amended include the Parliamentary Commissioner Act 1967, Northern Ireland Assembly Disqualification Act 1975, Commissioner for Complaints (Northern Ireland) Order 1996, Ombudsman (Northern Ireland) Order 1996 and Public Contracts Regulations 2006.

Article 17 provides for the transfer of functions under subordinate legislation and other instruments made in exercise of a function that is transferred under the Order. Exceptions to this general provision are set out in paragraph (4).

Articles 18 to 22 and Schedules 20 and 21 make provision about the transfer of property, liabilities and staff consequential on the Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010.

Part 3 of the Order makes amendments to and relating to the 1998 Act. Article 23 amends section 20 of the 1998 Act in relation to quasi-judicial decisions. Article 24 provides for the Royal prerogative of mercy to be exercisable in Northern Ireland by the Northern Ireland Minister of Justice. The rest of Part 3 contains consequential and transitional provision.

Part 4 of the Order contains general transitional provisions.

A full regulatory impact assessment has not been produced for this instrument as no impact on the private or voluntary sector is foreseen.

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**Changes and effects yet to be applied to :**

- Sch. 3 para. 5-7 revoked by [2014 c. 12 Sch. 11 para. 102](#)