
STATUTORY INSTRUMENTS

2011 No. 978

**NORTHERN IRELAND
CONSTITUTIONAL LAW
INTERNATIONAL IMMUNITIES
AND PRIVILEGES**

The Northern Ireland (Monitoring Commission
etc.) Act 2003 (Cessation of Provisions) Order 2011

*Made - - - - 28th March 2011
Article 5 comes into force in accordance with Article
1(2)*

The Secretary of State makes the following Order in exercise of the powers conferred by section 12(3) and (4) of the Northern Ireland (Monitoring Commission etc.) Act 2003⁽¹⁾.

Citation, commencement and interpretation

1.—(1) This Order may be cited as the Northern Ireland (Monitoring Commission etc.) Act 2003 (Cessation of Provisions) Order 2011.

(2) Article 5 of this Order shall come into force on 1st April 2011.

(3) In this Order—

“the 1998 Act” means the Northern Ireland Act 1998⁽²⁾;

“the 2003 Act” means the Northern Ireland (Monitoring Commission etc.) Act 2003;

“the 2003 Order” means the Northern Ireland (Monitoring Commission etc.) Act 2003 (Immunities and Privileges) Order 2003⁽³⁾;

“the Agreement” means the Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of Ireland establishing the International Monitoring Commission⁽⁴⁾;

(1) 2003 c. 25.

(2) 1998 c. 47.

(3) S.I. 2003/3126.

(4) Cm. 6068.

“the Commission” means the Independent Monitoring Commission established by the Agreement;

“member of the Commission” means a person appointed in terms of Article 10 of the Agreement.

Cessation

2.—(1) The day appointed for the purposes of section 12(3) of the 2003 Act is 31st March 2011.

(2) Accordingly, subject to Articles 3 and 4, the provisions referred to in section 12(3) of the 2003 Act (and the 2003 Order) cease to have effect at the end of that day.

Consequential and transitional provision

3.—(1) Section 1 of the 2003 Act (the Monitoring Commission) continues to have effect in so far as necessary for the purposes of article 4(5).

(2) Section 3 of the 2003 Act (laying of Commission reports before Parliament) continues to have effect in respect of any report delivered by the Commission to Her Majesty’s Government in the United Kingdom before 31st March 2011.

(3) Section 11(1)(a) of the 2003 Act (Secretary of State reports on the operation of the Agreement) continues to have effect in so far as it requires the Secretary of State to report on the operation of the Agreement until and including 31st March 2011 and for this purpose section 11(3) to (6) continues to have effect (subject to paragraph (4)).

(4) The final report by the Secretary of State under section 11(1)(a) of the 2003 Act must be in respect of a period ending with 31st March 2011, which may be a period of more or less than 12 months as the Secretary of State considers appropriate.

(5) Section 11(1)(b) of the 2003 Act (Secretary of State reports on the operation of certain provisions of the 1998 Act) continues to have effect in respect of amendments made by the 2003 Act to the 1998 Act which do not cease to have effect by virtue of article 2 and for this purpose section 11(3) to (6) continues to have effect.

4.—(1) The 2003 Order continues to have effect after 31st March 2011 in so far as it confers privileges and immunities (including any exemption) on persons in respect of their performance of official duties on or before 31st March 2011 as members of the Commission, staff and agents of the Commission and other persons who have carried out work for or given advice to the Commission.

(2) Subject to paragraph (3), the 2003 Order continues to have effect after 31st March 2011 in so far as it confers on the official archives of the Commission the inviolability that is accorded to the official archives of a diplomatic mission in accordance with the Articles of the Vienna Convention on Diplomatic Relations 1961 which are set out in Schedule 1 to the Diplomatic Privileges Act 1964(6).

(3) Her Majesty’s Government in the United Kingdom may at any time with the agreement of the Government of Ireland waive the inviolability of all or part of the official archives of the Commission, for a particular period of time or indefinitely and for a particular purpose or generally.

5. The following amendments are made to the 1998 Act—

(a) in section 16C (sections 16A and 16B appointment of Ministers: supplementary)(7)—

(5) Section 1 of the 2003 Act provides that the Secretary of State may by order confer privileges and immunities on members and servants of the Commission (including agents of and persons carrying out work for or giving advice to the Commission). These privileges and immunities are conferred by the Northern Ireland (Monitoring Commission etc.) Act 2003 (Immunities and Privileges) Order 2003 (S.I. 2003/3126) which is made under section 1.

(6) 1964 c. 81. Schedule 1 to the 1964 Act has been amended by section 6 of, and Schedule 2 to, the Diplomatic and Consular Premises Act 1987 (c. 46).

(7) Section 16C of the 1998 Act was inserted by section 8(1) of the Northern Ireland (St Andrews Agreement) Act 2006 (c. 53).

- (i) omit subsection (8);
- (ii) in subsection (9) in paragraph (a) omit “or a direction of the Secretary of State under section 30A(5)”;
- (iii) in subsection (9) in paragraph (b) omit “or 30A(5)”;
- (iv) in subsection (9), in the words following paragraph (b), omit “(unless any period of exclusion of the party under the other provision has not come to an end)”;
- (v) omit subsection (10);
- (vi) in subsection (12) omit “under any provision” and “under that provision”;
- (b) in section 18 (which provides for the filling of Ministerial offices)**(8)**—
 - (i) in subsection (1) omit paragraph (d);
 - (ii) in subsection (1) in paragraph (da) omit “or 30A(5)”**(9)**;
 - (iii) omit subsections (12A) and (12B);
 - (iv) in subsection (14) omit “under any provision” and “under that provision”;
- (c) in section 30 (exclusion of Ministers from office by resolution of the Assembly)**(10)**—
 - (i) in subsection (1A) omit “or section 30A(2)”;
 - (ii) in subsection (3) omit “or section 30A(5)”;
 - (iii) in subsection (7)—
 - (aa) in the opening words after “account” insert “each of the following”;
 - (bb) omit “and” at the end of paragraph (d);
 - (cc) omit paragraph (e);
- (d) in section 30B (Secretary of State’s powers of exclusion in exceptional circumstances)**(11)**—
 - (i) in subsection (1) omit “Notwithstanding the provisions of section 30A,”;
 - (ii) in subsection (2) omit paragraph (a) (including the word “or” at the end of it);
 - (iii) in subsection (3) omit paragraph (a) (including the word “and” at the end of it);
- (e) in section 47A (resolutions about reduction of remuneration)**(12)**—
 - (i) omit subsection (4);
 - (ii) in subsection (10) omit paragraph (b) (and the word “or” preceding it);
- (f) in section 47C (sections 47A and 47B: specified periods and extensions)**(13)**—
 - (i) in subsection (1) omit “or 47B(2) or (5)”;
 - (ii) in subsection (2) omit “or (4) or 47B(3) or (6)” and (in both places) the words “or direction”;
 - (iii) in the title for ‘Sections 47A and 47B’ substitute “Section 47A”;
- (g) in section 48 (pensions of members) in subsection (2A)**(14)** for “either or both of sections 47A and 47B” substitute “section 47A”;

(8) Section 18 of the 1998 Act has been amended by various enactments. Relevant amendments were made by sections 5(2) to (4) and 10(2) of the 2003 Act.

(9) Section 30A of the 1998 Act was inserted by section 5(1) of the 2003 Act.

(10) Section 30 of the 1998 Act has been amended by sections 4 and 5(6) of the 2003 Act.

(11) Section 30B of the 1998 Act was inserted by section 6 of the 2003 Act.

(12) Section 47A of the 1998 Act was inserted by section 7(1) of the 2003 Act.

(13) Section 47C of the 1998 Act was inserted by section 7(1) of the 2003 Act.

(14) Section 48(2A) of the 1998 Act was inserted by section 7(2) of the 2003 Act.

- (h) in section 51A (resolutions about reduction of financial assistance)(**15**)—
 - (i) omit subsection (3);
 - (ii) in subsection (9) omit paragraph (b) (and the word “or” preceding it);
- (i) in section 51C (sections 51A and 51B: specified periods and extensions)(**16**)—
 - (i) in subsection (1) omit “or 51B(2)”;
 - (ii) in subsection (2) omit “or (3) or 51B(3) or (4)” and (in both places) the words “or direction”;
 - (iii) in the title for “Sections 51A and 51B” substitute “Section 51A”;
- (j) section 95A (directions under sections 30A, 47B and 51B)(**17**) and Schedule 12A (effect of application of section 95A(6) or (7))(**18**) are repealed;
- (k) in Schedule 4A (department with policing and justice functions)(**19**)—
 - (i) in paragraph 3(**20**)—
 - (aa) omit sub-paragraph (12);
 - (bb) in sub-paragraph (13) omit “under any provision” and “under that provision”;
 - (ii) in paragraph 3D(**21**)—
 - (aa) in sub-paragraph (2) omit paragraph (c);
 - (bb) in sub-paragraph (2) in paragraph (d) omit “or 30A(5)” and “(otherwise than by virtue of section 95A(6) or (7))”;
 - (cc) omit sub-paragraph (16);
 - (dd) in sub-paragraph (17) omit “under any provision” and “under that provision”;
 - (iii) in paragraph 7(**22**)—
 - (aa) omit sub-paragraph (12);
 - (bb) in sub-paragraph (13) omit “under any provision” and “under that provision”;
 - (iv) in paragraph 11(**23**)—
 - (aa) omit sub-paragraph (13);
 - (bb) in sub-paragraph (14) omit “under any provision” and “under that provision”;

(15) Section 51A of the 1998 Act was inserted by section 8 of the 2003 Act.

(16) Section 51C of the 1998 Act was inserted by section 8 of the 2003 Act.

(17) Section 95A of the 1998 Act was inserted by section 10(1) of the 2003 Act.

(18) Schedule 12A to the 1998 Act was inserted by section 10(3) of the 2003 Act.

(19) Schedule 4A to the 1998 Act was inserted by section 17(2) of, and Schedule 2 to, the Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33).

(20) Paragraph 3 of Schedule 4A to the 1998 Act was inserted by section 17(2) of, and Schedule 2 to, the Northern Ireland (Miscellaneous Provisions) Act 2006. It has been amended by various enactments but none of those amendments is relevant to this Order.

(21) Paragraph 3D of Schedule 4A to the 1998 Act was inserted by section 1 of, and paragraph 4 of Schedule 1 to, the Northern Ireland Act 2009 (c. 3).

(22) Paragraph 7 of Schedule 4A to the 1998 Act was inserted by section 17(2) of, and Schedule 2 to, the Northern Ireland (Miscellaneous Provisions) Act 2006. It has been amended by various enactments but none of those amendments is relevant to this Order.

(23) Paragraph 11 of Schedule 4A to the 1998 Act was inserted by section 17(2) of, and Schedule 2 to, the Northern Ireland (Miscellaneous Provisions) Act 2006. It has been amended by various enactments but none of those amendments is relevant to this Order.

(v) in paragraph 11F(24)–

(aa) omit sub-paragraph (3);

(bb) in sub-paragraph (4) omit “under any provision” and “under that provision”.

Northern Ireland Office
28th March 2011

Owen Paterson
One of Her Majesty’s Principal Secretaries of
State

(24) Paragraph 11F of Schedule 4A to the 1998 Act was inserted by section 17(2) of, and Schedule 2 to, the Northern Ireland (Miscellaneous Provisions) Act 2006 as amended by section 44(8) of, and paragraphs 1 and 2 of Schedule 5 to, the Justice and Security (Northern Ireland) Act 2007 (c. 6).

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

EXPLANATORY NOTE

(This note is not part of the Order)

Article 2 of this Order appoints 31st March 2011 as the day at the end of which certain provisions in the Northern Ireland (Monitoring Commission etc.) Act 2003 and the Northern Ireland Act 1998 cease to have effect. The provisions which cease to have effect make provision in respect of the Independent Monitoring Commission (“the Commission”), the publication of reports made by the Commission, reports by the Secretary of State about the operation of the Agreement establishing the Commission and action which can be taken by the Secretary of State following a report by the Commission. The Commission will cease to operate at the end of 31st March 2011 by virtue of an exchange of letters between Her Majesty’s Government of the United Kingdom and the Government of Ireland which will terminate the Agreement between those governments which establishes the Commission. Article 3 of this Order makes consequential and transitional provision regarding the need to lay outstanding reports of the Commission before Parliament and regarding the reports of the Secretary of State about the operation of the Agreement and the operation of certain provisions of the Northern Ireland Act 1998. By virtue of article 2 of this Order, the Northern Ireland (Monitoring Commission etc.) Act 2003 (Immunities and Privileges) Order 2003 ceases to have effect at the end of 31st March 2011. But immunities and privileges enjoyed by members, staff and agents of the Commission and other persons who have carried out work for or given advice to the Commission are preserved by articles 3(1) and 4(1) in respect of official duties carried out by them on or before 31st March 2011. And article 4(2) and (3) provides that the official archives of the Commission will after 31st March 2011 continue to enjoy the inviolability that is accorded to the official archives of a diplomatic mission in accordance with the Articles of the 1961 Vienna Convention on Diplomatic Relations 1961 which are set out in Schedule 1 to the Diplomatic Privileges Act 1964 until waived by Her Majesty’s Government in the United Kingdom with the agreement of the Government of Ireland. Article 5 makes a number of consequential amendments to the Northern Ireland Act 1998.