



## 2021 CHAPTER 3

### **Amendment of the Civil Service (Special Advisers) Act (Northern Ireland) 2013**

1.—(1) The Civil Service (Special Advisers) Act (Northern Ireland) 2013 is amended as follows.

(2) In section 7 (Code of Conduct), for subsection (3) substitute—

“(3) Within the Executive Office the code may permit a special adviser to exercise any power mentioned in subsection (2)(b) in relation to another special adviser in that office.”.

(3) In section 7 (Code of Conduct), after subsection (3) insert—

“(3A) Without prejudice to the generality of subsection (1), the code must provide that special advisers are subject to the processes and procedures of the disciplinary code operative in the Northern Ireland Civil Service, as that code applies to special advisers, and that there can be no Ministerial interference.

(3B) Subject to subsection (3A), a Minister who appoints a special adviser is responsible for their management, conduct and adherence to the code of conduct.

(3C) For the purposes of subsection (3A), the following are not Ministerial interference—

- (a) the carrying-out of a role given to a Minister by the disciplinary code mentioned in that subsection;
- (b) the termination of a special adviser’s appointment by the appointing Minister outside of, or before the conclusion of, any process or procedure under that code.”.

(4) In section 8(3) (contents of code for appointments), after paragraph (b) insert—

“(c) must not be remunerated at a level higher than the highest level under the published pay scale applicable to an Assistant Secretary (Grade 5) in the Northern Ireland Civil Service.”.

(5) In section 8, after subsection (5) insert—

“(6) If, at any time after a special adviser is appointed (and whether or not the appointment has taken effect), a senior officer in the Department of Finance is satisfied that a person exercising functions in respect of the appointment did not have regard to the code, the Department of Finance must as soon as reasonably practicable after that time give the special adviser notice terminating the appointment with effect from the giving of the notice, but this—

- (a) does not apply if the appointment otherwise terminates before the notice is given, and
- (b) is without prejudice to the person’s rights (if any) to payment in lieu of notice.

(7) In subsection (6) “senior officer” has the meaning given by Article 2(3) of the Departments (Northern Ireland) Order 1999.”.

(6) After section 8, insert—

(1) A Minister must ensure that only a person duly appointed as a special adviser in the Minister’s department will exercise the functions, enjoy the access and receive the privileges of the person’s post as a special adviser; and the permanent secretary to a Northern Ireland department must ensure that no person other than a duly appointed special adviser is afforded by the department the cooperation, recognition and facilitation due to a special adviser by reason of the holding of that post.

(2) A special adviser—

- (a) in carrying out the functions of their post, is not to be supervised or directed by,
- (b) is not to report on their carrying-out of the functions of their post to, and
- (c) is not answerable for their carrying-out of the functions of their post to,

any person other than their appointing Minister, save as permitted by subsection (3) or (4) or section 7(3) or required by section 7(3A).

(3) A special adviser’s appointing Minister may authorise the special adviser, to such extent as the appointing Minister specifies, to be directed

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**Changes to legislation:** *There are currently no known outstanding effects for the Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021, Section 1. (See end of Document for details)*

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by or report to a junior Minister in the same department as the appointing Minister.

(4) Where a special adviser is a member of a profession or organisation, subsection (2) does not stop them being answerable to the profession or organisation for acts done in carrying out the functions of their post if they would be similarly answerable—

- (a) for corresponding acts done in carrying out the duties of an employment otherwise than as a special adviser, or
- (b) for corresponding acts done otherwise than in the course of an employment.”.

**Changes to legislation:**

There are currently no known outstanding effects for the Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2021, Section 1.