



Northern Ireland (Temporary Provisions) Act 1972

1972 CHAPTER 22

An Act to make temporary provision for the government of Northern Ireland, and for purposes connected therewith. [30th March 1972]

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

1 Exercise of executive and legislative powers in N.I.

- (1) So long as this section has effect, the Secretary of State shall act as chief executive officer as respects Irish services instead of the Governor of Northern Ireland, and no person shall be appointed or hold office under and in accordance with section 8 of the Government of Ireland Act 1920 as minister of Northern Ireland or head of a department of the Government of Northern Ireland; and, subject to the provisions of this Act and any Order in Council thereunder,—
- (a) all functions which apart from this Act belong to the Governor, or to the Governor in Council, or to the Government or any minister of Northern Ireland or head of a department of the Government of Northern Ireland, shall be discharged by the Secretary of State; and
 - (b) all functions which belong to a department of the Government of Northern Ireland may be discharged by the Secretary of State or (except in so far as he otherwise directs) may, notwithstanding that there is no head of the department, be discharged by the department on behalf of the Secretary of State and subject to his direction and control.

Paragraphs (a) and (b) of this subsection shall apply to functions conferred by any enactment or instrument after the passing of this Act, except in so far as provision to the contrary is made by that enactment or instrument.

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- (2) So long as this section has effect, the Attorney General for England and Wales shall by virtue of that office be Attorney General for Northern Ireland also, and he and the Solicitor General shall by virtue of membership of the bar of England and Wales have in Northern Ireland the same rights of audience as members of the bar of Northern Ireland.
- (3) So long as this section has effect, the Parliament of Northern Ireland shall stand prorogued (and no writ need be issued to fill any vacancy); and Her Majesty shall have power by Order in Council to make laws for any purpose for which the Parliament of Northern Ireland has power to make laws, and may by any such Order in Council confer powers or duties on the Secretary of State or any other Minister or department of the Government of the United Kingdom. Subject to the provisions of this Act, any Order in Council under this subsection may include the like provisions and shall have the same validity and effect as an Act passed (with any necessary consent) by the Parliament of Northern Ireland, and shall accordingly be subject to amendment and repeal by such an Act or by a further Order in Council under this section, and be deemed to be included (so far as the context permits) in any reference to enactments of that Parliament.
- (4) Save as provided by this section or any Order in Council made thereunder, Irish services shall continue to be administered, and the cost thereof to be met, as nearly as may be as if this section had not been passed; but the Schedule to this Act shall have effect to make provision as regards the discharge of functions which are by this section made exercisable by the Secretary of State or Attorney General, and as regards other consequential, supplementary or transitional matters.
- (5) Subject to any provision made by the Schedule to this Act, this section shall continue in force until the end of the period of one year beginning with the passing of this Act and shall then expire, but, at any time before the expiry of this section, Her Majesty may by Order in Council direct that it shall continue in force for a further period of one year from the time at which it would otherwise expire:

Provided that Her Majesty shall not be recommended to make an Order under this subsection unless a draft of the Order has been approved by resolution of each House of Parliament.

2 Status of Northern Ireland as part of the United Kingdom.

Nothing in this Act shall derogate or authorise anything to be done in derogation from the status of Northern Ireland as part of the United Kingdom.

3 Short title.

This Act may be cited as the Northern Ireland (Temporary Provisions) Act 1972.

SCHEDULE

Section 1.

CONSEQUENTIAL, SUPPLEMENTARY AND TRANSITIONAL PROVISIONS

Discharge of functions exercisable by Secretary of State or Attorney General

- 1 (1) So long as section 1 of this Act has effect, there shall be a body, to be known as the Northern Ireland Commission, to give advice to the Secretary of State on such matters connected with the discharge of his functions relating to Northern Ireland as he may refer to them; and it shall be the duty of the Secretary of State, unless in any case it appears to him impracticable by reason of urgency or otherwise so to do, to refer to the Commission for their advice any proposal to recommend to Her Majesty the making of an Order in Council under section 1(3) of this Act and any proposal to make regulations under section 1(3) of the Civil Authorities (Special Powers) Act (Northern Ireland) 1922.
- (2) The Commission shall consist of such number of persons appointed by the Secretary of State as he may from time to time determine, but a person shall not be appointed a member of the Commission unless he is at the time of his appointment ordinarily resident in Northern Ireland.
- (3) At any meeting of the Commission the chair shall be taken by the Secretary of State or, in his absence, by a person nominated by him to take his place (whether specially nominated for that meeting or more generally).
- (4) A member of the Commission shall hold and vacate office as such in accordance with the terms of his appointment, but may at any time, by notice in writing addressed to the Secretary of State, resign his membership.
- (5) The Secretary of State may pay to the members of the Commission, out of moneys provided by Parliament, such remuneration and allowances as he may with the approval of the Minister for the Civil Service determine.
- (6) No provision requiring the advice of any minister or of the Privy Council of Northern Ireland in relation to any action of the Governor shall be taken to apply in connection with the discharge of the Governor's functions by the Secretary of State under this Act.
- 2 (1) The Secretary of State may by order appoint such persons as he sees fit—
 - (a) to discharge any functions exercisable by him by virtue of section 1(1) of this Act, other than the power which is conferred by section 1(3) of the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 to make regulations with respect to the preservation of peace and maintenance of order; or
 - (b) subject to any provision to the contrary in any Order in Council under section 1(3) of this Act, to discharge any functions conferred on him by such an Order in Council.
- (2) Anything done in pursuance of an appointment under sub-paragraph (1) above shall be of the same validity and effect as if done by the Secretary of State; but no such appointment shall preclude the Secretary of State from discharging any functions himself.
- (3) Any appointment under sub-paragraph (1) above may at any time be revoked by a further order of the Secretary of State.

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- 3 (1) If at any time when section 1 of this Act has effect the office of Attorney General for England and Wales is vacant, then any functions authorised or required by any enactment or otherwise to be discharged by the Attorney General for Northern Ireland may be discharged by the Solicitor General for England and Wales as his deputy, and any certificate, petition, direction, notice, proceeding or other document, matter or thing whatsoever authorised or required to be given, delivered, served, taken or done to, on or against the Attorney General for Northern Ireland may be given, delivered, served, taken or done to, on or against the Solicitor General for England and Wales.
- (2) The Solicitor General for England and Wales may also, so long as section 1 of this Act has effect, act as Attorney General for Northern Ireland as deputy for the Attorney General for England and Wales, if the Attorney General is unable to act owing to absence or illness, or if the Attorney General authorises the Solicitor General to act in any particular case.

Parliamentary procedure for Orders in Council N.I. statutory rules etc.

- 4 (1) Her Majesty shall not be recommended to make an Order in Council under section 1(3) of this Act unless either a draft of the Order has been approved by resolution of each House of Parliament or the Order declares that it has been made to appear to Her Majesty that by reason of urgency the Order requires to be made without a draft having been so approved.
- (2) Any Order in Council under section 1(3) of this Act, other than an Order in Council of which a draft has been approved by resolution of each House of Parliament shall be laid before Parliament after being made and, if at the end of the period of forty days (computed in accordance with section 7(1) of the Statutory Instruments Act 1946) after the day on which it is made the Order has not been approved by resolution of each House, shall then cease to have effect (but without prejudice to anything previously done under the Order or to the making of a new Order).
- (3) The Secretary of State shall not make any regulations under section 1(3) of the Civil Authorities (Special Powers) Act (Northern Ireland) 1922 unless either a draft of the regulations has been approved by a resolution of each House of Parliament or the regulations declare that it appears to the Secretary of State that by reason of urgency the regulations require to be made without a draft having been so approved; and where any regulations are so made by the Secretary of State without a draft having been so approved, the last foregoing sub-paragraph shall apply to them as it applies to an Order in Council under section 1(3) of this Act.
- (4) An Order in Council under section 1(3) of this Act may, in relation to any statutory rules (including any such rules made by virtue of such an Order in Council), make provision corresponding to the last foregoing sub-paragraph or provision for the rules to be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and for section 5 of the Statutory Instruments Act 1946 to apply accordingly.
- (5) Where under any enactment or instrument it is a condition for the taking of any step (other than the annulment of any instrument), or for the coming of anything into operation, that a resolution or motion has been passed or address presented by one or both of the Houses of the Parliament of Northern Ireland, then so long as section 1 of this Act has effect the step may be taken or the thing shall come into operation without any such resolution, motion or address; but this sub-paragraph shall have no application to the consent required under subsection (2) of section 1 of the Ireland

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Act 1949 (which provides that in no event will Northern Ireland nor any part thereof cease to be part of His Majesty's dominions and of the United Kingdom without the consent of the Parliament of Northern Ireland); and—

- (a) any statutory instrument made or coming into operation by virtue of this sub-paragraph shall be subject to annulment in pursuance of a resolution of either House of Parliament; and
- (b) subject to any provision made by virtue of the last foregoing sub-paragraph, any statutory rules so made or coming into operation shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

- (6) So much of any enactment or instrument as makes the taking of any step, or the coming of anything into operation, conditional on the laying of any instrument or document before the Parliament of Northern Ireland or either House of that Parliament, or on any lapse of time after an instrument or document is so laid, shall not apply so long as section 1 of this Act has effect.

- 5 So long as section 1 of this Act has effect, section 10(3), (4) and (5)(a) of the Parliamentary Commissioner Act (Northern Ireland) 1969 and section 11(3) of the Commissioner for Complaints Act (Northern Ireland) 1969 shall have effect as if any reference therein to the Parliament of Northern Ireland were a reference to the Parliament of the United Kingdom.

Transitional

- 6 (1) Subject to any provision of this Act or of any Order in Council under section 1(3) of this Act,—
- (a) anything required or authorised by or under any enactment or instrument to be done to or in relation to the Governor or any minister of Northern Ireland in connection with any functions exercisable by virtue of section 1(1) of this Act by the Secretary of State shall, so long as section 1 of this Act has effect, be done instead to or in relation to the Secretary of State or any person for the time being appointed by him to discharge the relevant functions; and
 - (b) any enactment or instrument shall have effect, so far as may be necessary for or in consequence of the exercise of any functions by the Secretary of State by virtue of section 1(1) of this Act, as if references to the Governor of Northern Ireland or to the Governor in Council, or to the Government or any minister of Northern Ireland (including any reference which is to be construed as such a reference) were references to the Secretary of State or any person appointed by him to discharge the relevant functions.
- (2) This Act shall not invalidate anything done before it comes into force; and, subject as aforesaid,—
- (a) anything which is then in process of being done by or in relation to the Governor or by or in relation to any minister of Northern Ireland may be continued by or in relation to the Secretary of State or any person appointed by him to discharge the relevant functions; and
 - (b) any order, regulation, rule, direction, authority, appointment, authentication, approval or other instrument or act effective at the coming into force of this Act as that of the Governor in Council or Governor or any minister of Northern Ireland (other than any appointment as parliamentary secretary in

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a department of the Government of Northern Ireland) shall continue to have effect as that of the Secretary of State.

- 7 The expiry of section 1 of this Act shall not affect the operation thereof as respects things previously done or omitted to be done, or affect the continuance or effect of any Order in Council, regulations or other instrument or act effective by virtue of that section at the expiry thereof; and any Order in Council, regulations or instrument made or issued under or by virtue of that section may make provision having permanent effect or provision to take effect on or after the expiry of the section.

Interpretation

- 8 In this Schedule " enactment " includes an enactment of the Parliament of Northern Ireland, " statutory rules" has the same meaning as it has for purposes of the Statutory Rules Act (Northern Ireland) 1958, and " statutory instrument " means a statutory instrument within the meaning of the Statutory Instruments Act 1946.