



# Northern Ireland Constitution Act 1973

## 1973 CHAPTER 36

### PART I

#### PRELIMINARY

##### *Status of Northern Ireland*

#### **1 Status of Northern Ireland as part of United Kingdom.**

It is hereby declared that Northern Ireland remains part of Her Majesty's dominions and of the United Kingdom, and it is hereby affirmed that in no event will Northern Ireland or any part of it cease to be part of Her Majesty's dominions and of the United Kingdom without the consent of the majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1 to this Act.

##### *Devolution orders*

#### **2 Initial devolution of legislative and executive responsibility.**

(1) If it appears to the Secretary of State—

- (a) that the Northern Ireland Assembly (in this Act referred to as "the Assembly") has made satisfactory provision by its standing orders for the purposes mentioned in section 25(2) to (5) below; and
- (b) that a Northern Ireland Executive can be formed which, having regard to the support it commands in the Assembly and to the electorate on which that support is based, is likely to be widely accepted throughout the community,

and that having regard to those matters there is a reasonable basis for the establishment in Northern Ireland of government by consent, he shall lay before Parliament the draft of an Order in Council appointing a day for the commencement of Part II of this Act and declaring what matters shall, subject to section 3 below, be transferred matters for the purposes of this Act.

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

- (2) The matters declared by an Order under this section to be transferred matters shall not include—
- (a) any of the matters specified in Schedule 2 to this Act (in this Act referred to as “excepted matters”); or
  - (b) any of the matters specified in Schedule 3 to this Act.
- (3) If the draft laid before Parliament under subsection (1) above 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 in terms of the draft.
- (4) On the day appointed by an Order under this section for the commencement of Part II of this Act (in this Act referred to as “the appointed day”) section 1 of the <sup>M1</sup>Northern Ireland (Temporary Provisions) Act 1972 shall expire.

**Modifications etc. (not altering text)**

**C1** 1.1.1974 appointed under s. 2(4) by [S.I. 1973/2162](#), [art. 2\(1\)](#)

**Marginal Citations**

**M1** 1972 c. 22.

**3 Alterations in devolved responsibilities.**

- (1) If at any time after the appointed day it appears to the Secretary of State—
- (a) that any matter (not being an excepted matter) which is not a transferred matter by virtue of an Order under section 2 above or a previous Order under this section should become a transferred matter; or
  - (b) that any matter which by virtue of any such Order is a transferred matter should cease to be such a matter,
- he may, subject to subsection (2) below, lay before Parliament the draft of an Order in Council declaring that the matter shall be or, as the case may be, shall cease to be a transferred matter with effect from such date as may be specified in the Order.
- (2) The Secretary of State shall not lay before Parliament the draft of an Order in Council declaring that any matter not specified in Schedule 3 to this Act shall cease to be a transferred matter unless the Assembly has passed a resolution praying that it should cease to be a transferred matter.
- (3) Subsection (3) of section 2 above shall have effect in relation to any draft laid before Parliament under this section as it has effect in relation to a draft laid before Parliament under that section.
- (4) Any matter (not being an excepted matter) which is not for the time being a transferred matter is in this Act referred to as a “reserved matter”.

**Modifications etc. (not altering text)**

**C2** S. 3(2) amended by [Patents, Designs and Marks Act 1986 \(c. 39, SIF 67A\)](#), [s. 2\(2\)](#)

**C3** S. 3(2) amended by [Social Security Act 1986 \(c. 50, SIF 113:1\)](#), [s. 82, Sch. 9 paras. 6\(1\), 8\(2\)](#)

**C4** S. 3(2) amended by [Building Societies Act 1986 \(c. 53, SIF 16\)](#), [ss. 54\(3\)\(a\)\(5\), 122\(2\)](#)

**C5** S. 3(2) amended by [Financial Services Act 1986 \(c. 60, SIF 69\)](#), [s. 209\(2\)](#)

**C6** S. 3(2) amended by [Banking Act 1987 \(c. 22, SIF 10\)](#), [s. 109\(2\)](#)

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- C7** S. 3(2) amended by Social Security Act 1990 (c. 27, SIF 113:1), s. 22(2)
- C8** S. 3(2) amended (1.8.1991) by Human Fertilisation and Embryology Act 1990 (c. 37, SIF 83:1), s. 48(2)(with ss. 39(3), 43(2)); S.I. 1991/1400, art.2(2)
- C9** S. 3(2) amended by Environmental Protection Act 1990 (c. 43, SIF 46:4), ss. 3(8), 153(5)
- C10** S. 3(2) modified (*prosp.*) by Friendly Societies Act 1992 (c. 40), ss. 124(2), 126(2) (with ss. 7(5), 93(4))

## PART II

### LEGISLATIVE POWERS AND EXECUTIVE AUTHORITIES

#### *Legislative powers*

#### **4 Measures of Northern Ireland Assembly.**

- (1) Laws may be made for Northern Ireland by Measures of the Assembly (in this Act referred to as “Measures”).
- (2) A Measure shall be enacted by being passed by the Assembly and approved by Her Majesty in Council.
- (3) Subject to section 17 below, a Measure shall have the same force and effect as an Act of the Parliament of the United Kingdom.
- (4) This section does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland but, subject to the said section 17, a Measure may amend or repeal any provision made by or under any Act of Parliament in so far as it is part of the law of Northern Ireland.
- (5) It is hereby declared for the avoidance of doubt that a Measure is not invalid by reason of any failure to comply with the provisions of section 5, 6, 14 or 18(2), (5) or (6) below; and no act or omission under any of those provisions shall be called in question in any legal proceedings.

#### **5 Secretary of State’s consent for proposed Measures dealing with excepted or reserved matters.**

- (1) The consent of the Secretary of State shall be required in accordance with this section in relation to a proposed Measure which contains any provision dealing with an excepted matter or reserved matter; and the Secretary of State shall not give his consent in relation to a proposed Measure which contains any provision dealing with an excepted matter unless he considers that the provision is ancillary to other provisions (whether in that Measure or previously enacted) dealing with reserved matters or transferred matters.
- (2) Every proposed Measure introduced in the Assembly shall be considered by the Clerk to the Assembly on introduction and if—
  - (a) he considers that it contains any provision dealing with an excepted matter or reserved matter; and
  - (b) it has not been endorsed with a statement that the Secretary of State has consented to the Assembly considering the proposed Measure,

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then, subject to subsection (4) below, the Clerk shall refer the proposed Measure to the Secretary of State and the Assembly shall not proceed with the Measure unless the Secretary of State's consent to the consideration of the Measure by the Assembly is signified or the Assembly is informed that in his opinion the Measure does not contain any such provision as aforesaid.

(3) Before the Assembly enters on the stage in its proceedings at which a proposed Measure falls finally to be passed or rejected—

- (a) the Clerk to the Assembly shall again consider the proposed Measure; and
- (b) if he considers that it contains any provision dealing with an excepted matter or reserved matter he shall, subject to subsection (4) below, refer it to the Secretary of State,

and the Assembly shall not enter on that stage unless the Secretary of State's consent to the Measure is signified or the Assembly is informed that in his opinion the Measure does not contain any such provision as aforesaid.

(4) Neither subsection (2) nor subsection (3) above shall require the Clerk to the Assembly to refer any proposed Measure to the Secretary of State, or preclude the Assembly from proceeding with a proposed Measure, by reason only that it contains a provision which, in the opinion of the Clerk, is ancillary to other provisions (whether in that Measure or previously enacted) dealing with transferred matters only.

(5) Every proposed Measure passed by the Assembly shall be transmitted to the Secretary of State for submission to Her Majesty in Council but if—

- (a) he considers that it contains any provision dealing with an excepted matter or reserved matter; and
- (b) it has not been referred to him under subsection (3) above (whether by virtue of subsection (4) above or otherwise),

he shall not submit the Measure to Her Majesty in Council unless he consents to the Measure.

(6) If the Secretary of State withholds his consent to a proposed Measure passed by the Assembly he shall refer it back to the Assembly for further consideration; and, if it is modified by the Assembly and again transmitted to him, subsection (5) above shall apply to it as if it were a new proposed Measure transmitted to him after being passed by the Assembly.

(7) For the purposes of this section a provision is ancillary to other provisions if it is a provision which is necessary or expedient for making those other provisions effective or which provides for the enforcement of those other provisions or which is otherwise incidental to, or consequential on, those provisions; and references in this section to provisions previously enacted are references to provisions contained in, or in any instrument made under, another Measure, an Act of the Parliament of the United Kingdom or an Act of the Parliament of Northern Ireland.

**Modifications etc. (not altering text)**

C11 S. 5 modified by Northern Ireland Act 1982 (c. 38, SIF 29:3), s. 2(5), Sch. 1 para. 4(1)

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## **6 Parliamentary control of Measures dealing with excepted or reserved matters.**

- (1) Subject to the provisions of this section, a proposed Measure to which the Secretary of State has consented under section 5(3) or (5) above shall not be submitted by him to Her Majesty in Council unless he has first laid it before Parliament and either—
  - (a) the period of twenty days beginning with the date on which it is laid has expired without notice having been given in either House of a motion praying that the proposed Measure shall not be submitted to Her Majesty in Council for approval; or
  - (b) if notice of such a motion is given within that period the motion has been rejected or withdrawn.
- (2) Subsection (1) above shall not apply to a proposed Measure if the Secretary of State considers that it contains no provision dealing with an excepted matter or reserved matter except a provision which is ancillary (within the meaning of section 5 above) to other provisions dealing with transferred matters only.
- (3) Subsection (1) above shall not apply to a proposed Measure if the Secretary of State considers that by reason of urgency it should be submitted to Her Majesty in Council without first being laid before Parliament.
- (4) Any Measure submitted by virtue of subsection (3) above shall, if approved by Her Majesty in Council, be laid before Parliament by the Secretary of State after approval, and if—
  - (a) within the period of twenty days beginning with the date on which it is laid notice is given in either House of a motion praying that the Measure shall cease to have effect; and
  - (b) that motion is carried,Her Majesty may by Order in Council repeal that Measure with effect from such date as may be specified in the Order.
- (5) An Order in Council under subsection (4) above may make such consequential or transitional provision in connection with the repeal as appears to Her Majesty to be necessary or expedient.
- (6) Any notice of motion for the purposes of subsection (1) or (4) above must be signed by not less than twenty members of the House in which it is given; and any period mentioned in those subsections shall be computed, in relation to each House, by reference only to days on which that House sits.

### **Modifications etc. (not altering text)**

**C12** S. 6 modified by [Northern Ireland Act 1982 \(c. 38, SIF 29:3\)](#), s. 2(5), [Sch. 1 para. 4\(1\)](#)

## *Executive authorities*

## **7 Executive authorities in Northern Ireland.**

- (1) The executive power in Northern Ireland shall continue to be vested in Her Majesty.
- (2) As respects transferred matters the Secretary of State shall, as Her Majesty's principal officer in Northern Ireland, exercise on Her Majesty's behalf such prerogative or other

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executive powers of Her Majesty in relation to Northern Ireland as may be delegated to him by Her Majesty.

- (3) The powers so delegated shall be exercised through the [<sup>F1</sup>persons appointed under section 8 below] and the Northern Ireland departments.
- (4) ..... <sup>F2</sup>
- (5) The Ministries of the Government of Northern Ireland existing on the appointed day shall be the Northern Ireland departments for the purposes of this Act (and shall be known as departments instead of Ministries) but provision may be made by Measure for establishing new Northern Ireland departments or dissolving existing ones.
- (6) The Secretary of State as Her Majesty's principal officer in Northern Ireland, the members of the Northern Ireland Executive, any other persons appointed under section 8 below and the Northern Ireland departments are in this Act referred to as Northern Ireland executive authorities.

#### Textual Amendments

- F1** Words substituted by [Northern Ireland Constitution \(Amendment\) Act 1973 \(c. 69, SIF 29:3\), s. 1\(2\)](#)  
**F2** [S. 7\(4\)](#) repealed by [Northern Ireland Act 1982 \(c. 38, SIF 29:3\), Sch. 3](#)

#### [<sup>F3</sup>8 The Northern Ireland Executive.

- (1) The Secretary of State may on behalf of Her Majesty appoint—
  - (a) persons to be heads of the Northern Ireland departments; and
  - (b) persons to discharge such other functions as he may determine.
- (2) The Secretary of State may likewise appoint all or any of the persons appointed under subsection (1) above to be members of the Northern Ireland Executive and, if he thinks fit, one of those persons to preside over the Executive as chief executive member.
- (3) The total number of persons at any time holding appointments under this section shall not exceed thirteen but the Secretary of State may by an order made by statutory instrument increase or further increase that number and any such order shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) Subject to subsections (5) and (6) below, appointments under this section—
  - (a) shall be from among persons who are members of the Assembly; and
  - (b) shall be such as will in the opinion of the Secretary of State command widespread acceptance throughout the community.
- (5) Without prejudice to subsection (6) below, two of the persons at any time holding appointments under this section may be persons who were not appointed from among members of the Assembly but not more than one of them shall be the head of a Northern Ireland department.
- (6) If at any time it appears to the Secretary of State that it is not possible to make an appointment which complies with the requirements of subsection (4) above he may make an appointment which does not comply with those requirements but any person so appointed shall not hold office for more than six months.

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- (7) Before making any appointment under this section (otherwise than by virtue of subsection (6) above) the Secretary of State shall so far as practicable consult with the parties represented in the Assembly and take into account any proposals submitted to him under section 1 of the <sup>M2</sup>Northern Ireland Act 1982.]
- (8) Persons appointed under this section shall hold office at Her Majesty's pleasure; and a person who is required by this section to be appointed from among members of the Assembly shall not continue in office for more than six months after ceasing to be a member of the Assembly.
- (9) A person appointed under this section who is not a member of the Assembly shall be entitled to sit and speak in the Assembly but not to vote.
- (10) Every person appointed under this section shall, on appointment, take the oath or make the affirmation set out in Schedule 4 to this Act.

#### Textual Amendments

**F3** S. 8(1)—(7) substituted by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 2 para. 1**

#### Modifications etc. (not altering text)

**C13** S. 8 restricted during interim period by Northern Ireland Act 1974 (c. 28, SIF 29:3), **Sch. 1 para. 2(1)** (a) and by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 1 para. 5(1)** such restriction is excluded as regards s. 8(1) as mentioned in the said para. 5(1)

**C14** S. 8(2)(5)(6) excluded by Northern Ireland Act 1982 (c. 38, SIF 29:3), s. 2(5), **Sch. 1 para. 5(2)**

#### Marginal Citations

**M2** 1982 c. 38.

## 9 Remuneration and pensions of members of Northern Ireland Executive etc.

- (1) There shall be paid to each person appointed under section 8 above such salary and allowances as may be prescribed by Order in Council; and provision may be made by Order in Council for the payment of pensions to or in respect of persons who have held appointments under that section.
- (2) Any Order in Council under this section may be varied or revoked by a subsequent Order.
- (3) Any salaries or allowances payable by virtue of an Order in Council under this section, and any sums required by any such Order relating to pensions to be paid out of public funds, shall be defrayed out of moneys appropriated for that purpose by Measure.

## 10 Attorney General for Northern Ireland.

- (1) 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.
- (2) If at any time the office of Attorney General for England and Wales is vacant 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

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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.

- (3) The Solicitor General for England and Wales may also 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.

- (4) ..... F4

**Textual Amendments**  
 F4 S. 10(4) repealed by [Statute Law \(Repeals\) Act 1981 \(c. 19\)](#), [Sch. 1 Pt. IV](#)

**11 Agency arrangements between United Kingdom and Northern Ireland departments.**

- (1) Arrangements may be made between any department of the Government of the United Kingdom and any Northern Ireland department for any functions of one of them to be discharged by, or by officers of, the other.
- (2) No such arrangements shall affect the responsibility of the department on whose behalf any functions are discharged.
- (3) In this section references to a department of the Government of the United Kingdom include references to any Minister of the Crown and references to a Northern Ireland department include references to the head of a Northern Ireland department; and this section shall have effect in relation to the Post Office as it has effect in relation to a department of the Government of the United Kingdom.

*Relations with Republic of Ireland*

**12 Consultation, agreements and arrangements with Republic of Ireland.**

- (1) A Northern Ireland executive authority may—
  - (a) consult on any matter with any authority of the Republic of Ireland;
  - (b) enter into agreements or arrangements with any authority of the Republic of Ireland in respect of any transferred matter.
- (2) It is hereby declared that provision may be made by Measure for giving effect to any agreement or arrangement made under subsection (1) above, including provision for transferring to any authority designated by or constituted under the agreement or arrangement any function which would otherwise be exercisable by any authority in Northern Ireland or for transferring to an authority in Northern Ireland any functions which would otherwise be exercisable by any authority elsewhere.
- (3) Subsection (2) above does not affect the operation of sections 5 and 6 above in relation to the enactment of any Measure.



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### *Financial provisions*

#### **13 Consolidated Fund of Northern Ireland.**

- (1) The Consolidated Fund of Northern Ireland shall continue to exist but there shall cease to be an Exchequer of Northern Ireland separate from the Consolidated Fund.
- (2) Subject to any provision made by or under any Act of the Parliament of the United Kingdom or of Northern Ireland or any Measure charging any sums on the Consolidated Fund of Northern Ireland, all sums forming part of that Fund shall be appropriated to the public service of Northern Ireland by Measure and shall not be applied for any purpose for which they are not so appropriated.
- (3) Except as otherwise provided by Act of the Parliament of Northern Ireland or by Measure, the accounts of the Consolidated Fund of Northern Ireland shall be audited by the Comptroller and Auditor-General for Northern Ireland in the manner provided by the <sup>M3</sup>Exchequer and Audit Act (Northern Ireland) 1921.
- (4) ..... <sup>F5</sup>

#### **Textual Amendments**

**F5** Ss. 13(4), 25(4)–(7), 26(8)(9) and 27(1) repealed by [Northern Ireland Act 1982 \(c. 38, SIF 29:3\)](#), [Sch. 3](#)

#### **Marginal Citations**

**M3** 1921 c. 2. (N.I.)

#### **14 Proceedings in Assembly for imposing charge on public funds or for imposing taxation.**

No vote, resolution or Measure shall be passed by the Assembly for—

- (a) charging any sum on the Consolidated Fund of Northern Ireland or appropriating any sum out of that Fund or increasing the sums so charged or appropriated;
- (b) releasing or compounding any debt owed to the Crown; or
- (c) imposing or increasing any tax,

except in pursuance of a recommendation from the Head of the Department of Finance for Northern Ireland signified to the Assembly by him or by a member of the Northern Ireland Executive authorised by him for that purpose.

#### **15 Payment to Northern Ireland of share of United Kingdom taxes.**

- (1) Subject to subsection (4) below, there shall in respect of each year be charged on and paid out of the Consolidated Fund of the United Kingdom into the Consolidated Fund of Northern Ireland a sum equal to the Northern Ireland share of United Kingdom taxes.
- (2) The Northern Ireland share of United Kingdom taxes in respect of each year shall be determined by the Treasury; and that share shall be such amount as, in the opinion of the Treasury, represents the proceeds for that year of the taxes payable into the

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Consolidated Fund of the United Kingdom which are properly attributable to Northern Ireland after deducting the cost of collection and other appropriate costs.

- (3) The Treasury may make regulations with respect to the method by which the proceeds of the taxes, and the costs, mentioned in subsection (2) above are to be attributed to Northern Ireland; and any determination under that subsection shall be made in accordance with those regulations.
- (4) The Treasury may by order direct that there shall be deducted from the sum payable under subsection (1) above in respect of any year such sum as may be specified in the order by way of contribution towards the expenses falling on the Consolidated Fund of the United Kingdom in respect of that year which relate to excepted matters and reserved matters.
- (5) The sums payable under subsection (1) above shall be paid at such times and in such manner as the Treasury may determine, and payments may be made on account of sums subsequently so payable.
- (6) The power to make regulations or orders under this section shall be exercisable by statutory instrument and—
  - (a) any regulations under subsection (3) shall be subject to annulment in pursuance of a resolution of the House of Commons;
  - (b) no order shall be made under subsection (4) unless a draft of it has been approved by the House of Commons.

## 16 Grants to Northern Ireland out of moneys provided by Parliament.

- (1) The Secretary of State may from time to time pay out of moneys provided by Parliament into the Consolidated Fund of Northern Ireland such sums by way of grant as he may with the consent of the Treasury determine and may, in connection with any such payment, impose such conditions as he may with the like consent determine.
- (2) No further payments shall be made under section 26(7) of the <sup>M4</sup>Finance Act 1967 or under or by virtue of section 67 of the <sup>M5</sup>Finance Act 1971 (payments towards certain expenditure in Northern Ireland).

### Marginal Citations

**M4** 1967 c. 54.

**M5** 1971 c. 68.

## PART III

### PREVENTION OF RELIGIOUS AND POLITICAL DISCRIMINATION

### Modifications etc. (not altering text)

**C15** Pt. III (ss. 17-23) modified (N.I.) (1.7.1992) by [Social Security Administration \(Northern Ireland\) Act 1992 \(c. 8\)](#), **ss. 167(2), 168(4)** (with [ss. 153\(5\), 161, Sch. 6 para. 1\(7\)](#))

**C16** Pt. III (ss. 17-23) modified (N.I.) (7.2.1994) by [1993 c. 49](#), **ss. 176(8), 186(2)**

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## **17 Discrimination in legislation.**

- (1) Any Measure, any Act of the Parliament of Northern Ireland and any relevant subordinate instrument shall, to the extent that it discriminates against any person or class of persons on the ground of religious belief or political opinion, be void.
- (2) In this section “relevant subordinate instrument” means an instrument of a legislative character (including a byelaw) made (whether before or after the coming into force of this section) under any Act of the Parliament of the United Kingdom or the Parliament of Northern Ireland or under any Measure and extending only to Northern Ireland or a part of Northern Ireland.

## **18 Special procedure for determining validity of legislation.**

- (1) If it appears to the Secretary of State to be expedient in the public interest that steps should be taken for the speedy decision of any question whether a provision of a Measure, Act of the Parliament of Northern Ireland or relevant subordinate instrument within the meaning of section 17 above is void by virtue of that section, he may recommend to Her Majesty that the question be referred for decision to the Judicial Committee of the Privy Council.
- (2) If it appears to the Secretary of State that a proposed Measure transmitted to him after being passed by the Assembly contains a provision which, if the Measure were enacted, might be void by virtue of the said section 17 he shall refer it back to the Assembly for further consideration; and if—
  - (a) it is again transmitted to him with or without modification; and
  - (b) it still appears to him to contain such a provision as aforesaid,he shall recommend to Her Majesty that the question whether that provision would be void by virtue of the said section 17 be referred for decision to the Judicial Committee of the Privy Council.
- (3) For the purposes of their consideration of any question referred to them under this section the Judicial Committee may hear any person who appears to them to be interested in the determination of that question.
- (4) The decision of the Judicial Committee under this section as to the validity of any provision shall be stated in open court and shall be binding in all subsequent legal proceedings.
- (5) Where the Judicial Committee decide that a provision in a proposed Measure would be void the Secretary of State shall not submit the proposed Measure for the approval of Her Majesty in Council; and where they decide that such a provision would not be void their decision shall be taken as applying also to that provision if contained in the Measure when enacted.
- (6) Subsection (6) of section 5 above shall apply where the Secretary of State is precluded by subsection (5) above from submitting a proposed Measure for approval as it applies where he withholds his consent under that section and as if the reference to subsection (5) of that section included a reference to subsections (2) and (5) above.
- (7) This section is without prejudice to any power of Her Majesty to refer to the Judicial Committee any questions other than those mentioned in this section.

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## 19 Discrimination by public authorities.

- (1) [<sup>F6</sup>Subject to subsection (4) below] it shall be unlawful for a Minister of the Crown, a member of the Northern Ireland Executive or other person appointed under section 8 above, the Post Office and any authority or body listed in Schedule 2 to the <sup>M6</sup>Parliamentary Commissioner Act 1967, Schedule 1 to the <sup>M7</sup>Parliamentary Commissioner Act (Northern Ireland) 1969 or Schedule 1 to the <sup>M8</sup>Commissioner for Complaints Act (Northern Ireland) 1969 to discriminate, or aid, induce or incite another to discriminate, in the discharge of functions relating to Northern Ireland against any person or class of persons on the ground of religious belief or political opinion.
- (2) The obligation to comply with subsection (1) above is a duty owed to any person who may be adversely affected by a contravention of that subsection, and any breach of that duty is actionable in Northern Ireland accordingly.
- (3) Without prejudice to the right of any person apart from this subsection to claim an injunction restraining another from continuing or repeating any act which is unlawful by virtue of subsection (1) above, the plaintiff may in an action in respect of an act alleged to be unlawful as aforesaid claim any such injunction as is mentioned below on the grounds—
- that the act was done by the defendant and was unlawful as aforesaid;
  - that the defendant had previously done such unlawful acts of the same kind as, or of a similar kind to, that act; and
  - that he is likely, unless restrained by order of the court, to do further acts of the same or of a similar kind;
- and the court may, if satisfied as to those grounds and whether or not damages are awarded, grant such injunction as appears to the court to be proper in all the circumstances, being an injunction restraining the defendant from doing, or causing or permitting others to do, further acts of the same or a similar kind.
- [<sup>F7</sup>(4) This section does not apply to any act or omission which is unlawful by virtue of the <sup>M9</sup>Fair Employment (Northern Ireland) Act 1976 or would be unlawful but for some exception made by virtue of Part V of that Act.]]

### Textual Amendments

- F6** Words inserted by [Fair Employment \(Northern Ireland\) Act 1976 \(c. 25, SIF 43:1\)](#), [Sch. 6 para. 1\(a\)](#)  
**F7** [S. 19\(4\)](#) inserted by [Fair Employment \(Northern Ireland\) Act 1976 \(c. 25, SIF 43:1\)](#), [Sch. 6 para. 1\(b\)](#)

### Modifications etc. (not altering text)

- C17** [S. 19](#) extended by [S.I. 1982/713 \(N.I. 10\)](#), [Sch. 1 para. 1\(2\)](#)  
**C18** [S. 19](#) explained by [S.I. 1986/2232 \(N.I. 25\)](#), [art. 3\(9\)](#), [S.I. 1989/2413 \(N.I. 22\)](#) art. 3(2), [Sch. para. 9](#)  
**C19** [S. 19\(1\)](#) extended by [S.I. 1973/2095](#), [art. 4](#)

### Marginal Citations

- M6** [1967 c. 13.](#)  
**M7** [1969 c. 10 \(N.I.\)](#)  
**M8** [1969 c. 25 \(N.I.\)](#)  
**M9** [1976 c. 25.](#)

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

## 20 The Standing Advisory Commission on Human Rights.

- (1) There shall be constituted a Commission to be known as the Standing Advisory Commission on Human Rights (and hereafter in this section referred to as the Advisory Commission) for the purpose of—
- (a) advising the Secretary of State on the adequacy and effectiveness of the law for the time being in force in preventing discrimination on the ground of religious belief or political opinion and in providing redress for persons aggrieved by discrimination on either ground;
  - (b) .....<sup>F8</sup>
- (2) The Advisory Commission shall consist of—
- (a) a chairman appointed by the Secretary of State from among the members of the Advisory Commission;
  - (b) .....<sup>F9</sup>
  - (c) the Northern Ireland Commissioner for Complaints;
  - (d) the Northern Ireland Parliamentary Commissioner for Administration;
  - <sup>F10</sup>(dd) the chairman of the Fair Employment [<sup>F11</sup>Commission] for Northern Ireland; and]
  - (e) such other members as may be appointed by the Secretary of State; and any member mentioned in paragraphs (b) to [<sup>F12</sup>(dd)] above is hereafter in this section referred to as an ex-officio member.
- (3) An ex-officio member of the Advisory Commission shall on ceasing to hold the office by virtue of which he is a member of the Commission cease to be a member of the Commission and, if he is the chairman, to be chairman.
- (4) The members of the Advisory Commission, other than the ex-officio members, shall hold and vacate office in accordance with the terms of their respective appointments and shall, on ceasing to hold office, be eligible for re-appointment, but any such member may at any time by notice addressed to the Secretary of State resign his office.
- (5) The Secretary of State may out of moneys provided by Parliament pay the members of the Advisory Commission, other than the ex-officio members, such remuneration and such allowances as may be determined by the Secretary of State with the consent of [<sup>F13</sup>the Treasury].
- (6) The Secretary of State shall provide the Advisory Commission with such officers and such accommodation as may be appropriate.
- (7) The Advisory Commission shall make annual reports to the Secretary of State with respect to the exercise of their functions and make copies of those reports available to the Assembly; and the Secretary of State shall lay any such report before each House of Parliament.

### Textual Amendments

- F8** S. 20(1)(b) repealed by Fair Employment (Northern Ireland) Act 1976 (c. 25, SIF 43:1), s. 58(3)
- F9** S. 20(2)(b) repealed by S.I. 1975/417 (N.I.2), Sch.
- F10** S. 20(2)(dd) inserted by Fair Employment (Northern Ireland) Act 1976 (c. 25, SIF 43:1), Sch. 6 para. 2
- F11** Word substituted by Fair Employment (Northern Ireland) Act 1989 (c. 32, SIF 43:1), s. 59(1), Sch. 2 para. 2

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

- F12** “(dd)” substituted by [Fair Employment \(Northern Ireland\) Act 1976 \(c. 25, SIF 43:1\)](#), [Sch. 6 para. 2](#)  
**F13** Words substituted by virtue of [S.I. 1981/1670](#), [arts. 2\(2\), 3\(5\)](#)

## 21 Unlawful oaths, undertakings and declarations.

- (1) Subject to subsections (2) and (3) below, it shall be unlawful for an authority or body to which this section applies to require any person to take an oath, make an undertaking in lieu of an oath or make a declaration, as a condition of his being appointed to or acting as a member of that authority or body, or of serving with or being employed under that authority or body.
- (2) Subsection (1) above shall not prevent a person being required to take an oath or make an undertaking or a declaration which is specifically required or authorised to be taken or made—
  - (a) by the law in force immediately before the coming into force of that subsection; or
  - (b) by or under this Act or by a subsequent Measure for the time being in force; but, except as aforesaid, has effect notwithstanding anything in any enactment, any Measure or any instrument made under an enactment or a Measure.
- (3) Subsection (1) above shall not prevent a person being required to make a declaration of acceptance of office or a declaration that he is qualified to act, serve or be employed, or not disqualified from acting, serving or being employed, in any capacity.
- (4) This section applies to the Assembly and to any authority or body listed in Schedule 1 to the <sup>M10</sup>Parliamentary Commissioner Act (Northern Ireland) 1969 or Schedule 1 to the <sup>M11</sup>Commissioner for Complaints Act (Northern Ireland) 1969.
- (5) Subsections (1) to (3) above shall apply with the necessary modifications to a member of the Northern Ireland Executive or other person appointed under section 8 above as they apply to any such authority or body.
- (6) Subsections (2) and (3) of section 19 above shall apply in relation to subsection (1) above as they apply in relation to subsection (1) of that section.

### Modifications etc. (not altering text)

- C20** [S. 21](#) extended by [S.I. 1973/2095](#), [art. 4](#) and [1982/713 \(N.I.10\)](#), [Sch. 1 Para. 1\(2\)](#)  
**C21** [S. 21](#) explained by [S.I. 1986/2232 \(N.I. 25\)](#), [art. 3\(9\)](#), [S.I. 1989/2413 \(N.I. 22\)](#), [art. 3\(2\)](#), [Sch. para. 9](#)

### Marginal Citations

- M10** [1969 c. 10 \(N.I.\)](#)  
**M11** [1969 c. 25 \(N.I.\)](#)

## 22 Removal of restrictions on investigation into maladministration.

- (1) The enactments mentioned in subsection (2) below (which preclude a Commissioner appointed under any of the Acts so mentioned from conducting an investigation under the relevant Act when the person aggrieved has or had a remedy by way of proceedings in a court of law) shall not apply to an investigation of a complaint alleging maladministration involving discrimination on the ground of religious belief

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

or political opinion or a requirement in contravention of section 21 above to take an oath or make an undertaking or declaration.

- (2) The said enactments are:—
- (a) section 5(2)(b) of the <sup>M12</sup>Parliamentary Commissioner Act 1967;
  - (b) section 5(2)(b) of the <sup>M13</sup>Parliamentary Commissioner Act (Northern Ireland) 1969; and
  - (c) section 5(3)(b) of the <sup>M14</sup>Commissioner for Complaints Act (Northern Ireland) 1969.

#### Marginal Citations

**M12** 1967 c. 13.

**M13** 1969 c. 10 (N.I.)

**M14** 1969 c. 25 (N.I.)

## 23 Interpretation and supplemental.

- (1) For the purposes of this Part of this Act a Measure, an Act of the Parliament of Northern Ireland or any other instrument discriminates against any person or class of persons if it treats that person or that class less favourably in any circumstances than other persons are treated in those circumstances by the law for the time being in force in Northern Ireland.
- (2) For those purposes a person discriminates against another person or a class of persons if he treats that other person or that class less favourably in any circumstances than he treats or would treat other persons in those circumstances.
- (3) No Measure, Act of the Parliament of Northern Ireland or other instrument and no act done by any person shall be treated for the purposes of this Act as discriminating if the instrument has the effect, or, as the case may be, the act is done for the purpose, of safeguarding national security or protecting public safety or public order.
- (4) A certificate purporting to be signed by or on behalf of the Secretary of State and certifying that an act specified in the certificate was done for the purpose of safeguarding national security shall be conclusive evidence that it was done for that purpose.
- (5) No provision of this Part of this Act shall affect the operation before the coming into force of that provision of any Measure, Act of the Parliament of Northern Ireland or other instrument.
- (6) No provision of this Part of this Act shall render unlawful anything required or authorised to be done by any Act of the Parliament of the United Kingdom, whenever passed.

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

## PART IV

### THE NORTHERN IRELAND ASSEMBLY

#### 24 Presiding officer and Clerk of the Assembly.

- (1) The Assembly elected under the <sup>M15</sup>Northern Ireland Assembly Act 1973, and every Assembly subsequently elected, shall as its first business elect one of its members to be the presiding officer of the Assembly.
- (2) The person so elected shall hold office until the dissolution of the Assembly unless he previously resigns or ceases to be a member of the Assembly or is removed from office by resolution of the Assembly; and if the presiding officer vacates his office before the expiration of his term of office the Assembly shall elect another person to fill his place for the remainder of that term.
- (3) There shall be a Clerk to the Assembly appointed by Her Majesty on the recommendation of the Secretary of State.
- (4) The Clerk to the Assembly shall, with the consent of the Ministry of Finance for Northern Ireland as to numbers, appoint such other officers and servants of the Assembly as he considers requisite.
- (5) The remuneration of the Clerk to the Assembly shall be such as may be determined by the Ministry of Finance for Northern Ireland; and the remuneration and conditions of service of the other officers and servants of the Assembly shall be such as may be determined by the Clerk to the Assembly with the consent of that Ministry.
- (6) The remuneration of the Clerk to the Assembly shall be charged on and paid out of the Consolidated Fund of Northern Ireland and the remuneration of the other officers and servants of the Assembly shall be defrayed out of moneys appropriated by Measure.
- (7) The Clerk to the Assembly shall act as presiding officer while that office is vacant pending an election under subsection (1) or (2) above.
- (8) Any functions of the Clerk to the Assembly (including functions under section 5 above or under subsection (7) above) may, if the office of Clerk is vacant or the Clerk is for any reason unable to act, be discharged by any other officer for the time being discharging the duties of the Clerk.

#### Marginal Citations

M15 1973 c. 17.

#### 25 Procedure.

- (1) The Assembly shall make standing orders for regulating its procedure.
- (2) The standing orders shall include provision—
  - (a) for general debate of a proposed Measure with an opportunity for members to vote on its general principles;
  - (b) for the consideration of, and an opportunity for members to vote on, the details of a proposed Measure; and



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- (c) for a final stage at which a proposed Measure can be passed or rejected but not amended.
- (3) The standing orders shall include provision for the procedure to be adopted where the Secretary of State has withheld his consent to a proposed Measure under subsection (3) of section 5 above or has referred a proposed Measure back to the Assembly for further consideration.
- (4) ..... <sup>F14</sup>
- (8) The standing orders shall include provision for the examination by a committee of the Assembly of the manner in which moneys charged on or appropriated out of the Consolidated Fund of Northern Ireland have been applied.
- (9) The Secretary of State may give directions for regulating the procedure of the Assembly so far as he considers requisite pending the making of standing orders by the Assembly.
- (10) Subsection (8) above does not apply to the application of moneys before the appointed day.

**Textual Amendments**

**F14** Ss. 13(4), 25(4)–(7), 26(8)(9) and 27(1) repealed by [Northern Ireland Act 1982 \(c. 38, SIF 29:3\)](#), [Sch. 3](#)

**26 Privileges, remuneration, etc.**

[<sup>F15</sup>(1) Subject to subsection (1A) below and to any provision made by Measure, the powers, privileges and immunities of the Assembly and of its members and committees shall be the same as those for the time being held and enjoyed by the House of Commons and its members and committees.

(1A) Neither the Assembly nor its committees shall have power—

- (a) to require any person to give evidence, or to produce any papers, relating to any matter other than one in respect of which the Assembly has power to pass a Measure not requiring the consent of the Secretary of State; or
- (b) to require any person to give evidence, or to produce any papers, relating to any matter which is or has been within his responsibility as a Minister of the government of the United Kingdom or as an officer of a department under the control of any such Minister.]

(2) There shall be paid to each member of the Assembly such salary and allowances as may be prescribed by Order in Council; and provision may be made by Order in Council for the payment of pensions to or in respect of persons who have been members of the Assembly.

[<sup>F16</sup>(2A) An Order in Council under subsection (2) above increasing the salaries or allowances payable to members of the Assembly may be made with retrospective effect.]

(3) Any salary or allowances payable to a member by virtue of an Order in Council under subsection (2) above shall accrue from the date on which he is returned as a member but shall not be payable unless he takes his seat in the manner prescribed by standing orders.

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

- (4) Special provision may be made by Order in Council under subsection (2) above in respect of the member who is the presiding officer of the Assembly and in respect of such other members (if any) as may be elected by the Assembly to discharge other functions in relation to the Assembly.
- (5) Any salaries or allowances payable by virtue of an Order under subsection (2) above, and any sums required by such an Order relating to pensions to be paid out of public funds, shall be defrayed out of moneys appropriated for that purpose by Measure.
- (6) Any Order in Council under subsection (2) above may be varied or revoked by a subsequent Order.
- (7) A member of the Assembly may resign his seat by giving notice in writing to the presiding officer of the Assembly; and if a seat becomes vacant by resignation, death or disqualification the presiding officer shall as soon as practicable inform the Assembly thereof.
- (8) .....

F17

#### Textual Amendments

- F15** S. 26(1)(1A) substituted for S. 26(1) by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 2 para. 3(2)**
- F16** S. 26(2A) inserted by Northern Ireland Act 1982 (c. 38, SIF 29:3), Sch. 2 para. 3(3)
- F17** Ss. 13(4), 25(4)–(7), 26(8)(9) and 27(1) repealed by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 3**

#### Modifications etc. (not altering text)

- C22** S. 26(1) excluded by Elected Authorities (Northern Ireland) Act 1989 (c. 3, SIF 42), **ss. 6(4), 13(6)**
- C23** S.26(1A)(b) amended by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 2 para. 4**

## 27 Dissolution and prorogation.

- (1) .....

F18

[<sup>F19</sup>(2) Any Assembly elected following the dissolution of its predecessor by Order in Council shall by virtue of this sub-section be dissolved on the fourth anniversary of the day appointed for the election of the members of that Assembly; and any Assembly elected otherwise than as aforesaid shall by virtue of this subsection be dissolved on the fourth anniversary of the dissolution of its predecessor.

- (3) If, apart from this subsection, the date of dissolution under subsection (2) above would fall on a Saturday, Sunday, public holiday or bank holiday it shall fall on the next subsequent day which is not a Saturday, Sunday, public holiday or bank holiday.

In this subsection “bank holiday” means a day which by virtue of the <sup>M16</sup>Banking and Financial Dealings Act 1971 is a bank holiday in Northern Ireland.

- (4) The Secretary of State may by order direct that any date of dissolution under subsection (2) above shall, instead of being determined in accordance with that subsection and subsection (3) above, be a date specified in the order, being a date falling not more than two months before or after the date so determined.]]
- (5) If it appears to Her Majesty that the composition of the Assembly is such that it is not possible for the Secretary of State to make appointments under section 8 above

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*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

which comply with the requirements of subsection (4) of that section and that it is in the public interest that the Assembly should be dissolved, Her Majesty, after taking into account any vote or resolution of the Assembly which appears to Her Majesty to be relevant, may by Order in Council direct that the date of dissolution for the Assembly, instead of being determined in accordance with the foregoing provisions of this section, shall be such earlier date as may be specified in the Order.

[<sup>F20</sup>(6) Her Majesty may by Order in Council prorogue or further prorogue the Assembly.]

- (7) If the Assembly is dissolved in accordance with subsection . . . <sup>F21</sup> (5) above Her Majesty may by Order in Council appoint a day for the election of members of a new Assembly; and the first meeting of the new Assembly shall be held on such day as the Secretary of State may by order direct.
- (8) An Order in Council under this section may be varied or revoked by a subsequent Order and, except in the case of an Order proroguing the Assembly for a period of four months or less and not extending a previous period of prorogation, no recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been approved by resolution of each House of Parliament.
- (9) Any power of the Secretary of State to make an order under subsection (4) or (7) above includes power to vary or revoke a previous order and, in the case of an order under subsection (4), shall be exercisable by statutory instrument subject to annulment in pursuance of a resolution of either House of Parliament.
- (10) An Order in Council under this section proroguing the Assembly shall specify the period of prorogation and the Assembly shall meet at the expiration of that period but without prejudice to the power of Her Majesty to recall it earlier and subject to any further prorogation or any dissolution by or under this section before the expiration of that period.

#### Textual Amendments

- F18** Ss. 13(4), 25(4)–(7), 26(8)(9) and 27(1) repealed by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 3**
- F19** S. 27(2)–(4) substituted by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 2 para. 5(2)**
- F20** S. 27(6) substituted by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 2 para. 5(3)**
- F21** Words repealed by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 3**

#### Modifications etc. (not altering text)

- C24** Power to exclude s. 27 conferred by Northern Ireland Act 1982 (c. 38, SIF 29:3), **s. 5(1)**
- C25** S. 27 excluded by S.I. 1986/1036, **art. 2**
- C26** S. 27(7) extended by Northern Ireland Act 1974 (c. 28, SIF 29:3), **s. 1(1)**

#### Marginal Citations

- M16** 1971 c. 80.

## 28 Constituencies and number of members.

- (1) Section 1(2) of the <sup>M17</sup>Northern Ireland Assembly Act 1973 and the Schedule to that Act (which provide for the members of the Assembly to be returned for the constituencies in Northern Ireland which would return members to the Parliament of the United Kingdom if a general election were held at the passing of that Act and

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specifies the number of members to be returned by each constituency) shall apply also in relation to any subsequent election of members of the Assembly and, subject to subsection (6) below, shall so apply as if for the reference to the passing of that Act there were substituted a reference to the date on which the election is held.

- (2) Where the Boundary Commission for Northern Ireland submit to the Secretary of State a report under [<sup>F22</sup>section 3(1) or (3) of the Parliamentary Constituencies Act 1986] showing the constituencies into which the whole of, or any area in, Northern Ireland should be divided they shall submit therewith a supplementary report showing the number of members which they recommend should be returned to the Assembly by each of those constituencies.
- (3) The recommendations in a supplementary report shall not be such as substantially to alter the number of members specified in section 1(1) of the said Act of 1973 (total number of members of Assembly); and those recommendations shall be such as to secure, so far as practicable, that the ratio of the electorate of each constituency to the number of members to be returned by that constituency is the same in every constituency.
- In this subsection “the electorate”, in relation to a constituency, means the number of persons whose names appear on the register of electors for that constituency in force on the enumeration date (as defined in Schedule 2 to the said [<sup>F23</sup>Act of 1986]) under section 29 below.
- (4) [<sup>F24</sup>Sections 3(4) and (5), 4 and 5(1) (implementation of recommendations in report of Boundary Commission and publication of notice of proposed report)] shall apply to a supplementary report under this section as they apply to a report under that Act.
- [<sup>F25</sup>(5) An Order in Council under the said Act of 1986 for giving effect, with or without modifications, to the recommendations contained in a report or supplementary report of the Boundary Commission for Northern Ireland may make amendments consequential on giving effect to those recommendations in section 1(1) of and in the Schedule to the said Act of 1973.]
- [<sup>F25</sup>(6) Any provision of an Order in Council under the said Act of 1949 altering the boundaries of any constituency in Northern Ireland or the number of members specified in the said section 1(1) or the said Schedule in relation to any constituency shall not affect any election to the Assembly before the next general election to the Assembly or affect the constitution of the Assembly then in being.]
- (7) ..... <sup>F26</sup>

#### Textual Amendments

- F22** Words substituted by [Parliamentary Constituencies Act 1986 \(c. 56, SIF 42\)](#), s. 7, **Sch. 3 para. 1(2)**
- F23** Words substituted by [Parliamentary Constituencies Act 1986 \(c. 56, SIF 42\)](#), s. 7, **Sch. 3 para.1(3)**
- F24** Words substituted by [Parliamentary Constituencies Act 1986 \(c. 56, SIF 42\)](#), s. 7, **Sch. 3 para. 1(4)**
- F25** S. 28(5) substituted by virtue of [Parliamentary Constituencies Act 1986 \(c. 56, SIF 42\)](#), s. 7, **Sch. 3 para. 1(5)** (s. 28(5)(6) were substituted by [House of Commons \(Redistribution of Seats\) Act 1979 \(c.15, SIF 42\)](#), s. 1(5) and that s. 1(5) was repealed by [Parliamentary Constituencies Act 1986 \(c. 56, SIF 42\)](#), s. 8(1), **Sch. 4**: s. 28(6) as now set out in this Act is in the form in which it was originally enacted.)
- F26** S. 28(7) repealed by [Parliamentary Constituencies Act 1986 \(c. 56, SIF 42\)](#), s. 8, **Sch. 4**

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

#### Marginal Citations

M17 1973 c. 17.

### 29 Elections and franchise.

(1) The following provisions of section 2 of the <sup>M18</sup>Northern Ireland Assembly Act 1973, that is to say—

- (a) subsection (3) (voting in poll for election under that Act to be by single transferable vote);
- (b) subsection (4) (deposits by candidates at that election);
- (c) subsection (5) (power of Secretary of State by order to make provision as to the conduct etc. of that election);

shall apply also to any subsequent election of members of the Assembly, including bye-elections.

(2) The provision that may be made by an order under subsection (5) of the said section 2 as extended by this section shall include provision for determining, subject to section 27(7) above, the date of the poll for any such subsequent election, provision as to the persons entitled to vote at any such election and the registration of such persons and provision for such other matters relating to any such election as the Secretary of State thinks necessary or expedient.

#### Marginal Citations

M18 1973 c. 17.

### 30

(1) ..... <sup>F27</sup>

(3) In section 3 of the <sup>M19</sup> Northern Ireland Assembly Act (disqualification for membership of Assembly) in subsection (1) for the words from “a person is disqualified for membership of the Assembly” onwards there shall be substituted the words “a person is disqualified for membership of the Assembly if he is disqualified for membership of the Commons House of the Parliament of the United Kingdom otherwise than by the House of Commons Disqualification Act 1957” and in subsection (3) of that section references to a disqualification imposed by that section shall include references to a disqualification imposed by the said Act of 1957 as amended by this section.

#### Textual Amendments

F27 S. 30(1)(2) repealed by [Northern Ireland Assembly Disqualification Act 1975 \(c. 25, SIF 29:3\)](#), [Sch. 3 Pt. I](#)

#### Modifications etc. (not altering text)

C27 The text of ss. 30(3), 41(1) and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

#### **Marginal Citations**

**M19** 1973 c. 17.

## **PART V**

### MISCELLANEOUS AND SUPPLEMENTARY

#### **31 Abolition of Parliament of Northern Ireland.**

- (1) The Parliament of Northern Ireland shall cease to exist.
- (2) Unless and until the Clerk to the Assembly otherwise determines, every person who immediately before the date of the passing of this Act was employed in the service of, or of either House of the Parliament of Northern Ireland in any office mentioned in subsection (3) below shall as from that date be employed in the service of the Assembly with the same remuneration and conditions of service.
- (3) The said offices are Clerk-Assistant of the Parliaments, Second Clerk-Assistant of the Parliaments, Fourth Clerk at the Table, Librarian and Assistant Librarian, Editor and Deputy Editor of Official Reports of Debates and Reporter.
- (4) Subject to subsection (5) below, all property which immediately before the date of the passing of this Act was held in trust or used for the purposes of, or either House of, the Parliament of Northern Ireland, or partly for those purposes and partly for other purposes, shall on and after that date be applied for the purposes of the Assembly or such other purposes as the Ministry of Finance for Northern Ireland may determine.
- (5) The Secretary of State may require the Ministry to make available to him in any premises comprised in the property mentioned in subsection (4) above (other than the Parliament Buildings at Stormont) such accommodation and facilities as he may specify; and the Secretary of State shall in consideration of the use thereof after the appointed day make to the Ministry such payments out of moneys provided by Parliament as he and the Ministry may agree.
- (6) In so far as any of the property mentioned in subsection (4) above was not immediately before the date of the passing of this Act vested in the Ministry of Finance for Northern Ireland it shall vest in that Ministry on that date; and subsections (4) and (5) above shall have effect notwithstanding anything in any deed or other instrument relating to the property to which those subsections apply.

#### **32 Abolition of office of Governor and provisions as to Privy Council of Northern Ireland.**

- (1) The office of Governor of Northern Ireland shall cease to exist.
- (2) There shall be charged on and paid out of the Consolidated Fund of the United Kingdom to the last holder of that office such sum as the Secretary of State may, with the consent of the Minister for the Civil Service, determine to be appropriate.
- (3) No further appointments shall be made to the Privy Council of Northern Ireland.

*Status: Point in time view as at 01/08/1991.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

### **33 Preservation of pension rights of former members of Parliament of Northern Ireland and former Ministers.**

- (1) The Secretary of State shall be the sole trustee under Schedule 2 to the <sup>M20</sup>Ministerial Salaries and Members' Pensions Act (Northern Ireland) 1965 unless and until he appoints other persons to be trustees under that Schedule; and so long as the Secretary of State is sole trustee paragraphs 1 to 5 of that Schedule shall not apply.
- (2) Save as aforesaid and without prejudice to any provision made under this Act, nothing in this Act affects any pension payable under the said Act of 1965 or section 1 of the <sup>M21</sup>Ministerial Offices Act (Northern Ireland) 1952 the right to which has accrued before the passing of this Act or accrues upon a person ceasing to be a member of the Parliament of Northern Ireland by reason of section 31 above.

#### **Marginal Citations**

**M20** 1965 c. 18 (N.I.)

**M21** 1952 c. 15 (N.I.)

### **34 Director of Public Prosecutions for Northern Ireland.**

- (1) As from the appointed day the <sup>M22</sup>Prosecution of Offences (Northern Ireland) Order 1972 (which establishes and makes provision for the office of Director of Public Prosecutions for Northern Ireland) shall have effect subject to the following provisions of this section.
- (2) Any appointment to the office of Director or deputy Director of Public Prosecutions for Northern Ireland shall be made by the Attorney General for Northern Ireland; and the Attorney General for Northern Ireland may remove the Director or deputy Director on the ground of inability or misbehaviour.
- (3) In Article 4(2)(b) and (c) (provisions as to resignation and retirement) for references to the Governor of Northern Ireland there shall be substituted references to the Attorney General for Northern Ireland.
- (4) Article 3(2) (which places the Director under the superintendence of the Attorney General so long as section 1 of the <sup>M23</sup>Northern Ireland (Temporary Provisions) Act 1972 has effect) shall continue to apply after that section ceases to have effect.
- (5) Any reference in Article 4 or 8 to the Ministry of Home Affairs or the Ministry of Finance shall, as respects anything falling to be done after the appointed day, be construed as a reference to the Secretary of State.

#### **Marginal Citations**

**M22** S.I. 1972/538.

**M23** 1972 c. 22.

### **35 Crown Solicitor for Northern Ireland.**

- (1) As from the appointed day there shall be a Crown Solicitor for Northern Ireland appointed by the Attorney General for Northern Ireland.

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*Status: Point in time view as at 01/08/1991.*

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- (2) The Crown Solicitor shall hold office on such terms and conditions as may be determined by the Attorney General for Northern Ireland.
- (3) The services of the Crown Solicitor shall be available to any Minister or department of the Government of the United Kingdom and, with the approval of the Attorney General for Northern Ireland and on such terms as he may determine, to any Northern Ireland executive authority.
- (4) The remuneration of, and other expenses incurred in connection with, the Crown Solicitor shall be defrayed out of moneys provided by Parliament.

### **36 Provisions as to other Northern Ireland officers.**

- (1) Any appointment on or after the appointed day to the office of—
  - (a) Northern Ireland Parliamentary Commissioner for Administration;
  - (b) Northern Ireland Commissioner for Complaints;
  - (c) Civil Service Commissioner for Northern Ireland;
  - (d) Comptroller and Auditor-General for Northern Ireland,shall be made by Her Majesty.
- (2) The <sup>M24</sup>Parliamentary Commissioner Act (Northern Ireland) 1969 shall, in relation to any complaint made on or after the date of the passing of this Act, have effect as if for any reference in sections 5 and 6 to a member of the House of Commons there were substituted a reference to a member of the Assembly; and any report to be sent on or after that date under section 10(1) of that Act in respect of a complaint made before that date shall be sent by the Commissioner to such member of the Assembly as he thinks appropriate.
- (3) Section 10(3), (4) and (5) of the said Act of 1969 shall, as from the appointed day, have effect as if for any reference to each or either House of Parliament or to a member of the House of Commons there were substituted a reference to the Assembly or a member of the Assembly.
- (4) Subsections (2) and (3) above have effect subject to any provision made by Measure.
- (5) Her Majesty may by Order in Council make provision with respect to the appointment of lord-lieutenants, lieutenants and deputy lieutenants in Northern Ireland, for conferring on them functions which apart from the Order would be exercisable by lieutenants in Northern Ireland, for altering the designation of vice-lieutenants in Northern Ireland and for matters incidental to or consequential on any provision so made, including the amendment or repeal of any enactment passed before this Act.
- (6) An Order in Council under subsection (5) above may be varied or revoked by a subsequent Order.

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#### **Marginal Citations**

**M24** 1969 c. 10 (N.I.)



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### **37 Provisions as to Joint Exchequer Board and other financial matters.**

- (1) The functions of the Joint Exchequer Board are hereby transferred to the Treasury and that Board shall cease to exist.
- (2) Any sums which, apart from this Act, would be payable into the Consolidated Fund of the United Kingdom by virtue of section 22(1) of the <sup>M25</sup>Government of Ireland Act 1920 (reserved taxes) shall continue to be so paid; and, subject to subsection (3) below, any sums which, apart from this Act, would be payable into the Consolidated Fund of Northern Ireland by virtue of section 21(1) of that Act (transferred taxes) shall continue to be so paid.
- (3) There shall be paid into the Consolidated Fund of the United Kingdom, as from such date as the Treasury may by order direct, the proceeds of any tax specified in the order which would otherwise be paid into the Consolidated Fund of Northern Ireland.
- (4) The power to make orders under subsection (3) above includes power to vary or revoke a previous order and shall be exercisable by statutory instrument.

#### **Marginal Citations**

**M25** 1920 c. 67.

### **38 Power to legislate by Order in Council for certain matters relating to Northern Ireland.**

- (1) Her Majesty may by Order in Council make provision with respect to the following matters—
  - (a) elections (but not the franchise) and boundaries in respect of local authorities in Northern Ireland;
  - <sup>F28</sup>(b) any reserved matter.]
- (2) Her Majesty may by Order in Council make such amendments of the law of any part of the United Kingdom as appear to Her Majesty to be necessary or expedient in consequence of any provision made by or under any Measure or Act of the Parliament of Northern Ireland or Order in Council under section 1(3) of the <sup>M26</sup>Northern Ireland (Temporary Provisions) Act 1972 or by or under any Act of the Parliament of the United Kingdom . . . <sup>F29</sup> in so far as the provision is part of the law of Northern Ireland.
- (3) An Order in Council under subsection (2) above may contain such consequential and supplemental provisions as appear to Her Majesty to be necessary or expedient.
- (4) An Order in Council under this section may be varied or revoked by a subsequent Order.
- <sup>F30</sup>(5) Subject to subsection (6) below, no recommendation shall be made to Her Majesty to make an Order in Council under this section unless a draft of the Order has been approved by resolution of each House of Parliament.
- (6) Subsection (5) above does not apply to an Order in Council which—
  - (a) is made under subsection (1)(b) above; and
  - (b) 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 approved as mentioned in subsection (5) above;

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but any such Order shall be laid before Parliament after being made and, if at the end of the period of forty days after the date 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).

In reckoning the period mentioned in this subsection no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.

- (7) References to Measures in any enactment or instrument shall, so far as the context permits, be deemed to include references to Orders in Council under paragraph (b) of subsection (1) above; and Orders in Council under that paragraph may be omitted from any annual edition of statutory instruments required to be prepared under regulations made by virtue of section 8 of the <sup>M27</sup>Statutory Instruments Act 1946.]

#### Subordinate Legislation Made

- P1** S. 38: for exercises of this power see Index to Government Orders.  
**P2** S. 38(1)(a)(4): s. 38(1)(a)(4) power exercised by S.I. 1991/1715  
**P3** S. 38(2) power exercised by S.I. 1991/195.  
**P4** S. 38(2): s. 38(2) power exercised (19.12.1991) by S.I. 1991/2874

#### Textual Amendments

- F28** S. 38(1)(b) substituted by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 2 para. 6(2)**  
**F29** Words repealed by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 3**  
**F30** S. 38(5)-(7) substituted for s. 38(5) by Northern Ireland Act 1982 (c. 38, SIF 29:3), **Sch. 2 para. 6(4)**

#### Modifications etc. (not altering text)

- C28** S. 38(1) extended by Elections (Northern Ireland) Act 1985 (c. 2, SIF 42), **s. 5(1)**  
**C29** S. 38(1)(a) amended by Election (Northern Ireland) Act 1985 (c. 2, SIF 42), **s. 5(1)**  
**C30** S. 38(1)(b) restricted by Northern Ireland Act 1982 (c.38, SIF 29:3), **Sch. 2 para. 7(1)**

#### Marginal Citations

- M26** 1972 c. 22.  
**M27** 1946 c. 36.

### 39 Power to legislate by Order in Council for purposes consequential on this Act or on Orders under s. 3.

- (1) Her Majesty may by Order in Council make such provision, including provision amending the law of any part of the United Kingdom, as appears to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, this Act or any Order under section 3 above; and, without prejudice to the generality of that power, provision may in particular be made by any such Order for any of the matters mentioned in subsections (2) to (7) below.
- (2) Provision may be made for transferring, with effect from the appointed day, any functions which immediately before that day are (or but for the <sup>M28</sup>Northern Ireland (Temporary Provisions) Act 1972 or section 32 or 37 above would be) exercisable by any existing Northern Ireland authority—

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- (a) in so far as those functions appear to Her Majesty to be concerned with an excepted matter or reserved matter, to a United Kingdom authority;
  - (b) in so far as they appear to Her Majesty to be concerned with a transferred matter, to a new Northern Ireland authority.
- (3) Provision may be made, with effect from the appointed day, for anything which immediately before that day would, apart from the said Act of 1972 or section 31 above, fall to be done by or to the Parliament of Northern Ireland or either House of that Parliament in connection with any matter (other than the passing of Acts of that Parliament) to be done instead by or to—
  - (a) in so far as that matter appears to Her Majesty to be an excepted matter or reserved matter, the Parliament of the United Kingdom or either House of that Parliament;
  - (b) in so far as that matter appears to Her Majesty to be a transferred matter, the Assembly.
- (4) Provision may be made for transferring, with effect from any date specified in an Order under section 3 above, any functions which immediately before that date are exercisable by a United Kingdom authority or a new or existing Northern Ireland authority—
  - (a) in so far as they appear to Her Majesty to be concerned with a matter which on that date becomes a transferred matter, to a new or existing Northern Ireland authority;
  - (b) in so far as they appear to Her Majesty to be concerned with a matter which on that date ceases to be a transferred matter, to a United Kingdom authority.
- (5) Provision may be made, with effect from any date specified in an Order under the said section 3, for anything which immediately before that date falls to be done by or to the Parliament of the United Kingdom or either House of that Parliament or by the Assembly in connection with any matter (other than the passing of Acts of Parliament or Measures) to be done instead by or to—
  - (a) in so far as that matter appears to Her Majesty to be a matter which on that date becomes a transferred matter, the Assembly;
  - (b) in so far as that matter appears to Her Majesty to be a matter which on that date ceases to be a transferred matter, the Parliament of the United Kingdom or either House of that Parliament.
- (6) Provision may be made for any sums to be charged on and payable out of, or payable into, the Consolidated Fund of the United Kingdom or the Consolidated Fund of Northern Ireland or for any sums to be paid out of moneys provided by Parliament or out of moneys appropriated by Measure.
- (7) Provision may be made, to such extent as may appear to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, this Act or any Order under section 3 above—
  - (a) for transferring or apportioning any property, rights or liabilities;
  - (b) for substituting any authority for any other authority in any charter, contract or other document or in any legal proceedings;
  - (c) for any other transitional or consequential matter.
- (8) In this section—

“existing Northern Ireland authority” means the Governor of Northern Ireland, the Privy Council of Northern Ireland, the Governor of Northern

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Ireland in Council, the Prime Minister and any other Minister of the Government of Northern Ireland, any department of that Government, the Comptroller and Auditor-General for Northern Ireland, the Joint Exchequer Board and the Chief Crown Solicitor in Northern Ireland;

“new Northern Ireland authority” means any of the Northern Ireland executive authorities;

“United Kingdom authority” means the Privy Council, any Minister of the Government of the United Kingdom, the Treasury, the Defence Council, the Commissioners of Inland Revenue, the Commissioners of Customs and Excise, the Comptroller and Auditor General and the Crown Solicitor for Northern Ireland appointed under this Act.

- (9) The power to make Orders under this section includes power to vary or revoke a previous Order and no recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been approved by resolution of each House of Parliament.

**Modifications etc. (not altering text)**

**C31** S. 39(1) amended by [Northern Ireland Act 1982 \(c. 38, SIF 29:3\)](#), [Sch. 2 para. 8\(27\)](#)

**Marginal Citations**

**M28** 1972 c. 22.

**40 General adaptation of references to institutions and offices abolished by this Act.**

- (1) Schedule 5 to this Act shall have effect as from the appointed day for adapting references in existing statutory provisions to institutions and offices which cease to exist by virtue of this Act.
- (2) Where an existing statutory provision refers (otherwise than for the purpose of extending or restricting the powers of the Parliament of Northern Ireland) to the matters in respect of which that Parliament has or does not have power to make laws, that provision shall be construed as referring to the matters in respect of which that Parliament would or would not have had power to make laws if this Act had not been passed.
- (3) In this Section “existing statutory provision” means any provision contained in an Act of the Parliament of Northern Ireland or in an Act of the Parliament of the United Kingdom passed before the appointed day or in the Session in which the appointed day falls and any provision contained in an instrument made before the appointed day under any such Act.
- (4) Subsection (1) above applies also in relation to any charter, contract or other document (not being a statutory provision) made before the appointed day.
- (5) This section and Schedule 5 have effect subject to any provision made by or under this Act or by Measure, and modify references only so far as their context and the nature of the provision or document in question admit.

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*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

## 41 Repeals.

- (1) The enactments specified in Schedule 6 to this Act are hereby repealed to the extent specified in the third column of that Schedule—
  - (a) in the case of the enactments in Part I of that Schedule, as from the passing of this Act;
  - (b) in the case of those in Part II, as from the appointed day.
- (2) Without prejudice to the generality of the powers conferred by section 39 above, an Order in Council under that section may repeal or revoke any existing statutory provision (as defined in section 40 above) which appears to Her Majesty to be unnecessary in consequence of, or inconsistent with, any provision of this Act.

### Modifications etc. (not altering text)

- C32** The text of ss. 30(3), 41(1) and Sch. 6 is in the form in which it was originally enacted: it was not reproduced in Statutes in Force and does not reflect any amendments or repeals which may have been made prior to 1.2.1991.

## 42 Saving for existing laws.

- (1) Except so far as otherwise provided by or under this Act, nothing in this Act shall affect the continued operation in or in relation to Northern Ireland of any law in force at the passing of this Act or on the appointed day.
- (2) Without prejudice to subsection (1) above, neither the abolition of the Parliament of Northern Ireland nor the repeal by this Act of any provision relating to that Parliament shall affect the validity or otherwise of any Act of that Parliament.
- (3) Neither the abolition of the Parliament of Northern Ireland or of the office of Governor of Northern Ireland nor the repeal by this Act of any provision relating to that Parliament or office shall affect the operation of the <sup>M29</sup>Northern Ireland (Temporary Provisions) Act 1972 or the validity of any Order in Council made under section 1(3) of that Act; and any provision of any Act passed in the same Session as this Act which confers powers on the Parliament of Northern Ireland or functions on the Governor or the Governor in Council shall be construed as conferring corresponding powers on Her Majesty to make laws under the said section 1(3) or corresponding functions on the Secretary of State.

### Modifications etc. (not altering text)

- C33** S. 42 extended by S.I. 1986/1032 (N.I. 6), **art. 2(4)**  
**C34** S. 42 amended by S.I. 1989/1339 (N.I. 11), **art. 2(10)**  
**C35** S. 42 extended by S.I. 1990/594 (N.I. 6), **Pt. I art. 2(11)**  
**C36** S. 42(2) extended by S.I. 1989/846 (N.I. 6), **Pt. I art. 2(4)**  
**C37** S. 42(3) extended by S.I. 1986/594 (N.I. 3), **art 2(3)**  
**C38** S. 42(3) extended (21.8.1991) by S.I. 1991/1220 (N.I. 11), **arts. 1(2), 2(3)**.

### Marginal Citations

- M29** 1972 c. 22.

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*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973. (See end of Document for details)*

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### 43 Short title, interpretation and commencement.

- (1) This Act may be cited as the Northern Ireland Constitution Act 1973.
- (2) In this Act—
  - “the appointed day” means the day appointed under section 2 above for the commencement of Part II of this Act;
  - “the Assembly” means the Northern Ireland Assembly;
  - “excepted matter” means any matter specified in Schedule 2 to this Act;
  - “enactment” includes an enactment of the Parliament of Northern Ireland;
  - “functions” includes powers and duties;
  - “Measure” means a Measure of the Northern Ireland Assembly;
  - “Northern Ireland” has the same meaning as for the purposes of the <sup>M30</sup>Government of Ireland Act 1920;
  - “Northern Ireland executive authorities” has the meaning given in section 7(6) above;
  - “reserved matter” has the meaning given in section 3(4) above;
  - “transferred matter” means any matter which is for the time being declared to be such a matter by an order under Part I of this Act.
- (3) In accordance with section 7(5) above, references in this Act to the Ministry of Finance for Northern Ireland shall from the appointed day be construed as references to the Department of Finance for Northern Ireland.
- (4) Any reference in this Act to any enactment is a reference to that enactment as amended by, and includes a reference to that enactment as extended or applied by, any other enactment including this Act.
- (5) Part I of this Act and, except where otherwise stated, Parts IV and V of this Act shall come into force at the passing of this Act.
- (6) Part III of this Act shall come into force on a day specified in an order made by the Secretary of State by statutory instrument, and different days may be specified under this subsection for different provisions of Part III.

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#### **Modifications etc. (not altering text)**

**C39** 1.9.1973 appointed under s. 43(6) by [S.I. 1973/1418](#)

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#### **Marginal Citations**

**M30** 1920 c. 67.

**Status:**

Point in time view as at 01/08/1991.

**Changes to legislation:**

There are currently no known outstanding effects for the Northern Ireland Constitution Act 1973.