



Northern Ireland Act 1982

CHAPTER 38

ARRANGEMENT OF SECTIONS

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ELIZABETH II



Northern Ireland Act 1982

1982 CHAPTER 38

An Act to make new provision for the resumption of legislative and executive functions by the Northern Ireland Assembly and by persons responsible to it; to amend the Northern Ireland Constitution Act 1973 and the Northern Ireland Assembly Act 1973; and for connected purposes. [23rd July 1982]

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.—(1) Subject to the provisions of this section, the Northern Ireland Assembly may, with a view to the making of one or more Orders in Council under section 2 below, submit to the Secretary of State—

Proposals for general or partial suspension of direct rule.

- (a) proposals for the resumption by the Assembly and by persons responsible to it of all the functions that would be exercisable by them apart from Schedule 1 to the Northern Ireland Act 1974 (direct rule); or
- (b) proposals for the resumption as aforesaid of those functions so far as relating to any transferred matters within the responsibilities of any one or more Northern Ireland departments.

1974 c. 28.

(2) Proposals under paragraph (a) of subsection (1) above shall include proposals as to the composition of a Northern Ireland Executive and as to the other appointments to be made under section 8 of the Constitution Act; and proposals under paragraph (b) of that subsection shall include proposals as to the appointment under that section of a head of the Northern Ireland department or, as the case may be, each Northern

Ireland department to which the proposals relate and may include proposals as to the appointment under that section of a person to assist any person appointed as head of any such department.

(3) Proposals under subsection (1) above may also include proposals for further provisions in the standing orders of the Assembly for the better conduct of any functions that would become exercisable by it in pursuance of those proposals.

(4) The Assembly shall not submit any proposals under this section unless—

- (a) the proposals have the support of at least 70 per cent. of the members of the Assembly ; or
- (b) the proposals have the support of a majority of those members and the Secretary of State has notified the Assembly that he is satisfied that the substance of the proposals is likely to command widespread acceptance throughout the community.

(5) The Secretary of State shall lay before Parliament any proposals submitted to him under this section.

General or
partial
suspension of
direct rule.
1974 c. 28.

2.—(1) At any time after proposals have been laid before Parliament under section 1 above Her Majesty may by Order in Council—

- (a) suspend the operation of the provisions of Schedule 1 to the Northern Ireland Act 1974 ; or
- (b) suspend the operation of those provisions so far as relating to the transferred matters within the responsibilities of such Northern Ireland department or departments as are specified in the Order.

(2) No recommendation shall be made to Her Majesty to make an Order under subsection (1) above unless each House of Parliament has passed a resolution approving a draft of the Order and stating that its provisions are, in the opinion of that House, likely to command widespread acceptance throughout the community.

(3) An Order may be made under paragraph (a) of subsection (1) above without any Order having been made under paragraph (b) of that subsection or, if one or more Orders have been made under paragraph (b) of that subsection, so as to supersede that Order or those Orders.

(4) No Order under subsection (1)(b) above shall specify the Department of Finance and Personnel or any matters within its responsibilities.

(5) An Order under paragraph (a) of subsection (1) above shall have effect as provided in Part I of Schedule 1 to this Act ; and an Order under paragraph (b) of that subsection shall have effect as provided in Part II of that Schedule.

(6) An Order under subsection (1) above may contain such transitional provisions as appear to Her Majesty to be required in consequence of the Order.

3.—(1) During any period for which no Order is in force under paragraph (a) of subsection (1) of section 2 above, the Assembly—

(a) may, without prejudice to its powers by virtue of any Order under paragraph (b) of that subsection, consider any matter affecting Northern Ireland which is not an excepted matter ;

(b) shall consider any matter affecting Northern Ireland (whether or not an excepted matter) which is referred to it by the Secretary of State.

(2) Without prejudice to the generality of subsection (1)(b) above, the Secretary of State may refer to the Assembly for its consideration—

(a) any proposal for the making of an Order under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 ;

(b) any instrument or draft of an instrument to which paragraph 3 of that Schedule applies ;

but the reference to the Assembly under this section of an instrument or draft shall not be regarded for the purposes of the said paragraph 3 as laying it before the Assembly.

(3) The Assembly may report to the Secretary of State the views expressed in the Assembly on any matter considered by it under this section and shall do so if the Secretary of State so requests ; and any such request may require the report to be made within a specified period.

(4) The Secretary of State shall lay before Parliament any report received by him under this section which relates to a transferred matter considered by the Assembly under subsection (1)(a) above or to a matter which has been referred to it under this section by the Secretary of State.

(5) For the purposes of section 26(1) of the Constitution Act (privilege) any report made under this section shall be treated as an official record of the proceedings of the Assembly.

4.—(1) The Assembly shall by its standing orders make provision—

(a) for the establishment, in relation to each Northern Ireland department whose functions are for the time being subject to paragraph 2(2) of Schedule 1 to the Northern Ireland Act 1974, of a committee of

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1974 c. 28.

Assembly committees in relation to departments under control of Secretary of State.

members of the Assembly for the purpose of considering the exercise of those functions ; and

- (b) for the appointment by the presiding officer of the Assembly of the members of each such committee and of a chairman and a deputy chairman (or two deputy chairmen) of each such committee from among its members.

(2) The appointments made pursuant to subsection (1)(b) above shall be such as to secure, so far as practicable, that the balance of parties in the Assembly is reflected—

- (a) in the membership of each committee exclusive of the chairman and deputy chairman or chairmen ;
 (b) in the chairmen taken as a whole ; and
 (c) in the deputy chairmen taken as a whole.

(3) Special provision may be made by Order in Council under section 26(2) of the Constitution Act (salaries etc. of members of the Assembly) in respect of the members who are appointed as chairmen or deputy chairmen of committees established under this section, and different provision may be made as respects chairmen and deputy chairmen respectively.

(4) The foregoing provisions are without prejudice to the establishment by the Assembly of other committees to assist it in the discharge of its functions.

Dissolution
of Assembly
and revocation
of Orders.

5.—(1) If it appears to Her Majesty after taking into account any relevant proceedings in the Assembly—

- (a) that no proposals are likely to be submitted under section 1 above that could lead to the making of an Order under section 2 above or, if any such Order is or has been revoked, to the making of a further Order under that section ; and
 (b) that it is in the public interest that the Assembly should be dissolved,

Her Majesty may by Order in Council direct that the date of dissolution for the Assembly, instead of being determined in accordance with section 27 of the Constitution Act, shall be such earlier date as may be specified in the Order.

(2) Subsections (7), (8) and (9) of the said section 27 (ancillary provisions in case of dissolution) shall have effect in relation to any dissolution and any Order under subsection (1) above as they have effect in relation to any dissolution and any Order under subsection (5) of that section.

(3) If at any time when an Order is in force under section 2 above it appears to Her Majesty, after taking into account any relevant proceedings in the Assembly, that the continued operation of the Order does not command widespread

acceptance throughout the community Her Majesty may by Order in Council revoke that Order or, if it was made under subsection (1)(b) of that section and applies to two or more Northern Ireland departments, revoke it so far as it applies to any of them.

(4) No recommendation shall be made to Her Majesty to make an Order under subsection (3) above unless a draft of the Order has been approved by a resolution of each House of Parliament.

(5) An Order under subsection (3) above may contain such transitional provisions as appear to Her Majesty to be required in consequence of the Order.

6. The Constitution Act and the Northern Ireland Assembly Act 1973 shall be amended in accordance with Schedule 2 to this Act. Amendments
of Constitution
and Assembly
Acts.
1973 c. 17.

7.—(1) This Act may be cited as the Northern Ireland Act 1982. Short title,
interpretation
and repeals.

(2) In this Act “the Constitution Act” means the Northern Ireland Constitution Act 1973 and any expression which is also used in that Act has the same meaning as in that Act. 1973 c. 36.

(3) The enactments mentioned in Schedule 3 to this Act (which include spent provisions) are hereby repealed to the extent specified in the third column of that Schedule.

SCHEDULES

Section 2(5).

SCHEDULE 1

SUSPENSION OF DIRECT RULE

PART I

GENERAL SUSPENSION

1974 c. 28.

1. Where an Order is made under section 2(1)(a) of this Act—
 - (a) the interim period referred to in subsection (3) of section 1 of the Northern Ireland Act 1974 shall expire on the coming into force of the Order ; but
 - (b) if the Order is revoked that period shall run again for the period of one year beginning with the date of revocation and may be continued thereafter as provided by subsection (4) of that section.

2. Where an Order under paragraph (a) of subsection (1) of section 2 of this Act comes into force at a time when one or more Orders are in force under paragraph (b) of that subsection the Order or Orders under paragraph (b) shall thereupon cease to have effect.

PART II

PARTIAL SUSPENSION

Preliminary

3.—(1) While an Order is in force under section 2(1)(b) of this Act the interim period referred to in subsection (3) of section 1 of the Northern Ireland Act 1974 shall continue without the need for any order under subsection (4) of that section ; and if an Order under section 2(1)(b) of this Act is revoked (and no other Order under that provision is in force) that period shall further continue as aforesaid for the period of one year beginning with the date of revocation.

(2) In this Part of this Schedule—

“ the relevant order ” means the Order under section 2(1)(b) of this Act ;

“ the specified matters ” and “ the specified department ” mean the transferred matters and the Northern Ireland department (or each Northern Ireland department) in relation to which the relevant order is in force ;

“ Schedule 1 ” means Schedule 1 to the Northern Ireland Act 1974.

Legislative functions

- 4.—(1) While the relevant order is in force—
 - (a) paragraph 1(1)(a) of Schedule 1 shall not preclude the Assembly from passing Measures ; but

(b) transferred matters other than the specified matters shall be treated for the purposes of sections 5 and 6 of the Constitution Act as if they were reserved matters.

SCH. 1

(2) It is hereby declared for the avoidance of doubt that the Assembly may, as part of its power to legislate for the specified matters, pass Measures appropriating moneys for the services administered by the specified department or charging sums on, or providing for the payment of sums into, the Consolidated Fund of Northern Ireland in respect of the specified matters.

Executive functions

5.—(1) Notwithstanding paragraph 2(1)(a) of Schedule 1 the Secretary of State may under section 8(1) of the Constitution Act appoint—

- (a) a person to be head of the specified department while the relevant order is in force ; and
- (b) a person to assist the person appointed as mentioned in paragraph (a) above.

(2) Subsections (2), (5) and (6) of section 8 of the Constitution Act (appointments to Northern Ireland Executive and appointment of persons who are not members of the Assembly etc.) shall not apply to any appointment made by virtue of sub-paragraph (1) above.

(3) While the relevant order is in force paragraph 2(1)(b) and (2) of Schedule 1 shall not apply to the specified department.

Subordinate instruments, etc.

6.—(1) While the relevant order is in force paragraph 3(1) to (6) of Schedule 1 shall not apply in relation to the specified matters.

(2) For the purposes of this paragraph an instrument shall not be treated as not relating to the specified matters by reason only that it requires the consent or concurrence of a Northern Ireland department other than the specified department or that it contains provisions creating offences or imposing penalties.

Parliamentary Commissioner and Commissioner for Complaints

7.—(1) Paragraph 4(1) of Schedule 1 shall not apply to any report which relates only to matters that are the responsibility of the specified department at the time when the report is made.

(2) Where, apart from this sub-paragraph, a report to which the said paragraph 4(1) applies would relate both—

- (a) to such matters as are mentioned in sub-paragraph (1) above ; and
- (b) to other matters,

the report shall be made in separate parts relating to those matters respectively and the said paragraph 4(1) shall apply only to the part dealing with the matters referred to in paragraph (b) above.

SCH. 1

Accounts

8.—(1) Paragraph 5(1) of Schedule 1 shall not apply to any accounts or reports required by any provision of the Exchequer and Audit Act (Northern Ireland) 1921 (other than section 10) which relate to—

(a) the specified department ; and

(b) a period for which the relevant order is in force ;

and where any such accounts or reports relate to a financial year of which only part falls within the period mentioned in paragraph (b) above the accounts or reports shall be prepared separately for that part and for the remainder of the financial year in question.

(2) Notwithstanding paragraph 5(3) of Schedule 1 the functions of any such committee as is there mentioned shall extend to the application of moneys by the specified department during the period for which the relevant order is in force.

Section 6.

SCHEDULE 2

AMENDMENTS OF CONSTITUTION AND ASSEMBLY ACTS

Appointment of heads of Northern Ireland departments and members of the Northern Ireland Executive

1. In section 8 of the Constitution Act for subsections (1) to (7) there shall be substituted—

“(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.

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(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.

(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 Northern Ireland Act 1982."

Abolition of statutory consultative committees

2. In the Constitution Act—

- (a) section 7(4) (which requires the head of a Northern Ireland department to consult with a consultative committee of the Assembly established in relation to that department); and
- (b) section 25(4) to (7) (which requires the standing orders of the Assembly to provide for the establishment of such consultative committees),

shall cease to have effect.

Privileges and remuneration of the Assembly

3.—(1) Section 26 of the Constitution Act shall be amended as follows.

(2) For subsection (1) there shall be substituted—

“(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

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(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.”

(3) After subsection (2) there shall be inserted—

“(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.”

1974 c. 28.

4. The matters referred to in section 26(1A)(b) of the Constitution Act include any matter which is or has been within the responsibility of the Secretary of State by virtue of paragraph 2 of Schedule 1 to the Northern Ireland Act 1974 or within the responsibility of an officer of a Northern Ireland department under the control of the Secretary of State by virtue of that paragraph.

Dissolution and prorogation of Assembly

5.—(1) Section 27 of the Constitution Act shall be amended as follows.

(2) For subsections (2) to (4) there shall be substituted—

“(2) Any Assembly elected following the dissolution of its predecessor by Order in Council shall by virtue of this subsection 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.

1971 c. 80.

In this subsection “bank holiday” means a day which by virtue of the 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.”

(3) For subsection (6) there shall be substituted—

“(6) Her Majesty may by Order in Council prorogue or further prorogue the Assembly.”

Power to legislate by Order in Council for reserved and other matters SCH. 2

6.—(1) Section 38 of the Constitution Act shall be amended as follows.

(2) In subsection (1) for paragraph (b) there shall be substituted—
“ (b) any reserved matter.”

(3) In subsection (2) the words “ passed before this Act ” shall be omitted.

(4) For subsection (5) there shall be substituted—

“ (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 ;

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 Statutory Instruments Act 1946.”

1946 c. 36.

7.—(1) No recommendation shall be made to Her Majesty to make an Order in Council under section 38(1)(b) of the Constitution Act during the interim period referred to in section 1(3) of the Northern Ireland Act 1974.

1974 c. 28.

(2) Orders in Council under section 38(1)(b) of the Constitution Act shall not be regarded as subordinate legislation for the purposes of section 23(1) or (2) of the Interpretation Act 1978 but shall be Northern Ireland legislation for the purposes of section 24 of that Act.

1978 c. 30.

SCH. 2

Power to make consequential amendments

8. In section 39(1) of the Constitution Act the reference to that Act and an Order under section 3 of that Act shall include a reference to this Act and any Order under section 2 or 5(3) of this Act.

Excepted matters

9. In paragraph 15 of Schedule 2 to the Constitution Act—

- 1974 c. 28.
- (a) after the words “the Northern Ireland Assembly Act 1973 or this Act” there shall be inserted the words “or by the Northern Ireland Act 1974 or the Northern Ireland Act 1982”;
- (b) after the words “an Order in Council under section 6(4) or (5), 38 or 39 of this Act” there shall be inserted the words “or under paragraph 1 of Schedule 1 to the said Act of 1974”.

Costs of Assembly elections

- 1973 c. 17.
10. Section 4(2) of the Northern Ireland Assembly Act 1973 shall apply also to any subsequent election of members of the Assembly, including bye-elections.

Alteration of number of members to be returned by constituencies

11. In the Schedule to the Northern Ireland Assembly Act 1973 for the number of members specified in relation to each of the constituencies mentioned in the first column of the following Table there shall be substituted the number of members specified in relation to that constituency in the second column of that Table.

TABLE

<i>Constituency</i>				<i>Substituted number of members to be returned</i>
East Belfast	...	...	...	6
North Belfast	...	...	...	5
South Belfast	...	...	...	5
West Belfast	...	...	...	4
North Antrim	...	...	...	8
South Antrim	...	...	...	10
Armagh ...	...	...	...	7
North Down	...	...	...	8
South Down	...	...	...	7
Fermanagh and South Tyrone	...	...	...	5
Londonderry	...	...	...	7
Mid Ulster ...	...	...	...	6

SCHEDULE 3

Section 7(3).

REPEALS

Chapter	Short Title	Extent of Repeal
1973 c. 17.	The Northern Ireland Assembly Act 1973.	Section 1(3), (5) and (6). Section 2(1) and (2). Section 4(1).
1973 c. 36.	The Northern Ireland Constitution Act 1973.	Section 7(4). Section 13(4). Section 25(4) to (7). Section 26(8) and (9). In section 27, subsection (1) and in subsection (7) the words “(1)(b) or”.
1973 c. 69.	The Northern Ireland Constitution (Amendment) Act 1973.	In section 38(2) the words “passed before this Act”.
1974 c. 28.	The Northern Ireland Act 1974.	In section 1, subsection (1) and in subsection (2) the words following the semi-colon. Section 1(2). Section 2. Schedule 2.
1975 c. 25.	The Northern Ireland Assembly Disqualification Act 1975.	In Schedule 2, paragraph 3.

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