



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART IV

#### THE NORTHERN IRELAND ASSEMBLY

##### *Proceedings etc.*

#### [<sup>F1</sup>40A Undertaking by members

- (1) A member of the Assembly shall not—
- (a) participate in any proceedings of the Assembly, or
  - (b) have any of the other rights and privileges enjoyed by members of the Assembly who have taken their seats,
- until he or she has given the following undertaking:

“I undertake:

— to support the rule of law unequivocally in word and deed and to support all efforts to uphold it;

— to work collectively with the other members of the Assembly to achieve a society free of paramilitarism;

— to challenge all paramilitary activity and associated criminality;

— to call for, and to work together with the other members of the Assembly to achieve, the disbandment of all paramilitary organisations and their structures;

— to challenge paramilitary attempts to control communities;

— to support those who are determined to make the transition away from paramilitarism;

— to accept no authority, direction or control on my political activities other than my democratic mandate alongside my own personal and party judgment.”

*Status: Point in time view as at 27/06/2018.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Cross Heading: Proceedings etc.. (See end of Document for details)*

- (2) Standing orders shall provide for the procedure for giving the undertaking.
- (3) The procedure may not specify a day or period of time after which members are prohibited from giving the undertaking.
- (4) Subsection (1) applies to a person on each occasion when he or she becomes a member of the Assembly.]

#### Textual Amendments

- F1** S. 40A inserted (4.5.2016) by Northern Ireland (Stormont Agreement and Implementation Plan) Act 2016 (c. 13), ss. 8(1), 11(2) (with Sch. 2)

#### 41 Standing orders.

- (1) The proceedings of the Assembly shall be regulated by standing orders.
- (2) Standing orders shall not be made, amended or repealed without cross-community support.
- (3) Schedule 6 (which makes provision as to how certain matters are to be dealt with by standing orders) shall have effect.

#### 42 Petitions of concern.

- (1) If 30 members petition the Assembly expressing their concern about a matter which is to be voted on by the Assembly, the vote on that matter shall require cross-community support.
- (2) Standing orders shall make provision with respect to the procedure to be followed in petitioning the Assembly under this section, including provision with respect to the period of notice required.
- (3) Standing orders shall provide that the matter to which a petition under this section relates may be referred, in accordance with paragraphs 11 and 13 of Strand One of the Belfast Agreement, to the committee established under section 13(3)(a).

#### 43 Members' interests.

- (1) Standing orders shall include provision for a register of interests of members of the Assembly, and for—
  - (a) registrable interests (as defined in standing orders) to be registered in it; and
  - (b) the register to be published and made available for public inspection.
- (2) Standing orders shall include provision requiring that any member of the Assembly who has—
  - (a) a financial interest (as defined in standing orders) in any matter; or
  - (b) any other interest, or an interest of any other kind, specified in standing orders in any matter,
 declares that interest before taking part in any proceedings of the Assembly relating to that matter.

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- (3) Standing orders made in pursuance of subsection (1) or (2) may include provision for preventing or restricting the participation in proceedings of the Assembly of a member with a registrable interest, or an interest mentioned in subsection (2), in a matter to which the proceedings relate.
- (4) Standing orders shall include provision prohibiting a member of the Assembly from—
  - (a) advocating or initiating any cause or matter on behalf of any person, by any means specified in standing orders, in consideration of any payment or benefit in kind of a description so specified; or
  - (b) urging, in consideration of any such payment or benefit in kind, any other member of the Assembly to advocate or initiate any cause or matter on behalf of any person by any such means.
- (5) Standing orders may include provision—
  - (a) for excluding from proceedings of the Assembly any member who fails to comply with, or contravenes, any provision made in pursuance of subsections (1) to (4); and
  - (b) for withdrawing his rights and privileges as a member for the period of his exclusion.
- (6) Any member of the Assembly who—
  - (a) takes part in any proceedings of the Assembly without having complied with, or in contravention of, any provision made in pursuance of subsections (1) to (3); or
  - (b) contravenes any provision made in pursuance of subsection (4),is guilty of an offence.
- (7) A person guilty of an offence under subsection (6) is liable on summary conviction to a fine not exceeding level 5 on the standard scale.
- (8) Proceedings for an offence under subsection (6) shall not be taken without the consent of the Director of Public Prosecutions for Northern Ireland.

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

**C1** S. 43 applied (12.4.2010) by [Justice \(Northern Ireland\) Act 2002 \(c. 26\), ss. 25\(4\), 87\(1\)](#); [S.R. 2010/113, art. 2, Sch. para. 5](#)

**44 Power to call for witnesses and documents.**

- (1) The Assembly may require any person—
  - (a) to attend its proceedings for the purpose of giving evidence; or
  - (b) to produce documents in his custody or under his control,relating to any of the matters mentioned in subsection (2).
- (2) Those matters are—
  - (a) transferred matters concerning Northern Ireland;
  - (b) other matters in relation to which statutory functions are exercisable by Ministers or the Northern Ireland departments.

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- (3) The power in subsection (1) is exercisable in relation to a person outside Northern Ireland only in connection with the discharge by him of functions relating to matters within subsection (2).
- (4) That power is not exercisable in relation to a person who is or has been a Minister of the Crown, or a person who is or has been in Crown employment within the meaning of Article 236 of the <sup>M1</sup>Employment Rights (Northern Ireland) Order 1996, in connection with the discharge of any functions prior to the appointed day [<sup>F2</sup>or during a period when section 1 of the Northern Ireland Act 2000 was in force].
- [<sup>F3</sup>(4A) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a function which relates to a matter which is a transferred matter by virtue of an Order under section 4.
- For this purpose “relevant period” means a period when the matter was not a transferred matter.
- (4B) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a statutory function which—
- (a) is exercisable by a Minister or a Northern Ireland department; but
  - (b) was at any time exercisable by a Minister of the Crown.
- For this purpose “relevant period” means a period when the statutory function was exercisable by a Minister of the Crown.]
- (5) That power is not exercisable in relation to—
- (a) a person discharging functions of any body whose functions relate to excepted matters, in connection with the discharge by him of those functions;
  - (b) a person discharging functions of any body whose functions relate to reserved matters, in connection with the discharge by him of those functions;
  - (c) a judge of any court or a member of any tribunal which exercises the judicial power of the State.
- (6) That power may be exercised by a committee of the Assembly only if the committee is expressly authorised to do so by standing orders.
- (7) The Presiding Officer shall give the person in question notice in writing specifying—
- (a) the time and place at which the person is to attend and the particular matters relating to which he is required to give evidence; or
  - (b) the documents, or types of documents, which he is to produce, the date by which he is to produce them and the particular matters to which they are to relate.
- (8) Such notice shall be given—
- (a) in the case of an individual, by sending it, by registered post or the recorded delivery service, addressed to him at his usual or last known address or, where he has given an address for service, at that address;
  - (b) in any other case, by sending it, by registered post or the recorded delivery service, addressed to the person at the person’s registered or principal office.
- (9) A person is not obliged under this section to answer any question or produce any document which he would be entitled to refuse to answer or produce in proceedings in a court in Northern Ireland.

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- (10) In this section “statutory functions” means functions conferred by virtue of any enactment.

#### Textual Amendments

- F2** Words in s. 44(4) inserted (12.2.2000) by 2000 c. 1, s. 9(3); S.I. 2000/396, art. 2  
**F3** S. 44(4A)(4B) inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 18, 31; S.I. 2009/448, art. 2

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

- C2** Amendment in s. 44(4) continued (10.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 2(2)(5), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)), {Sch. 4 para. 2(8)} (with Sch. 4 para. 2(10)); S.I. 2007/1397, art. 2

#### Marginal Citations

- M1** S.I. 1996/1919 (N.I.16).

## 45 Witnesses and documents: offences.

- (1) Subject to subsection (9) of section 44, any person to whom a notice under subsection (7) of that section has been given who—
- refuses or fails to attend proceedings as required by the notice;
  - refuses or fails, when attending proceedings as required by the notice, to answer any question relating to the matters specified in the notice;
  - deliberately alters, suppresses, conceals or destroys any document which he is required to produce by the notice; or
  - refuses or fails to produce any such document,
- is guilty of an offence and liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months.
- (2) It is a defence for a person charged with an offence under subsection (1)(a), (b) or (d) to prove that he had a reasonable excuse for the refusal or failure.
- (3) Where an offence under this section which has been committed by a body corporate is proved to have been committed with the consent or connivance of, or to be attributable to any neglect on the part of—
- a director, manager, secretary or other similar officer of the body corporate; or
  - any person who was purporting to act in any such capacity,
- he, as well as the body corporate, is guilty of that offence and liable to be proceeded against accordingly.
- (4) Proceedings for an offence under this section shall not be taken without the consent of the Director of Public Prosecutions for Northern Ireland.
- (5) For the purposes of section 44 and this section, a person shall be taken to comply with a requirement to produce a document if he produces a copy of, or an extract of the relevant part of, the document.

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**46 Witnesses: oaths.**

- (1) The Presiding Officer or such other person as may be authorised by standing orders may—
  - (a) administer an oath to any person giving evidence in proceedings of the Assembly; and
  - (b) require him to take the oath.
- (2) Any person who refuses to take an oath when required to do so under subsection (1) (b) is guilty of an offence.
- (3) A person guilty of an offence under this section is liable on summary conviction to a fine not exceeding level 5 on the standard scale or to imprisonment for a period not exceeding three months.

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