



# Northern Ireland Act 1998

## 1998 CHAPTER 47

### PART VIII

#### MISCELLANEOUS

##### *Power to make provision by Order in Council*

#### **84 Provision with respect to certain matters relating to Northern Ireland.**

(1) Her Majesty may by Order in Council make provision with respect to elections (but not the franchise) and boundaries in respect of district councils in Northern Ireland.

[<sup>F1</sup>(1A) The power in subsection (1) includes power to make provision with respect to polls at elections for district councillors when they are combined with polls at other elections.]

(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—

- (a) Northern Ireland legislation; or
- (b) any Act of Parliament passed before this Act in so far as the provision is part of the law of Northern Ireland.

(3) An Order in Council under subsection (1) or (2) may contain such consequential and supplemental provisions as appear to Her Majesty to be necessary or expedient.

(4) 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 laid before and approved by resolution of each House of Parliament.

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#### **Textual Amendments**

**F1** S. 85(1A) inserted (10.4.2001) by 2001 c. 7, s. 3(4)

*Status: Point in time view as at 10/04/2001. This version of this cross heading contains provisions that are not valid for this point in time.*

*Changes to legislation: There are currently no known outstanding effects for the Northern Ireland Act 1998, Cross Heading: Power to make provision by Order in Council. (See end of Document for details)*

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

**C1** S. 84(1) extended (10.4.2001) by 2001 c. 7, s. 4, **Sch. Pt. III para. 33**

**C2** S. 84(4) amended (16.2.2001) by 2000 c. 41, s. 7(3) (with s. 156(6)); S.I. 2001/222, art. 2, **Sch. 1 Pt. I**

### **85 Provision dealing with certain reserved matters.**

- (1) Her Majesty may by Order in Council make provision dealing with any matter falling within a description specified in any of paragraphs 9 to 17 of Schedule 3 (a “relevant matter”), including—
  - (a) provision having retrospective effect;
  - (b) provision for the delegation of functions;
  - (c) provision amending or repealing any provision made by or under any Act of Parliament or Northern Ireland legislation.
- (2) An Order in Council under this section may—
  - (a) make provision ancillary to provisions (whether in the Order or previously enacted) which deal with any relevant matter;
  - (b) make such consequential, incidental, supplemental, or transitional provision as appears to Her Majesty to be necessary or expedient.
- (3) 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 laid before and approved by resolution of each House of Parliament.
- (4) No draft may be laid under subsection (3) unless—
  - (a) the Secretary of State has laid before Parliament a document which contains a draft of the proposed Order;
  - (b) the Secretary of State has referred the document to the Assembly for its consideration; and
  - (c) the period of 60 days beginning with the day on which the document was laid before Parliament has ended.
- (5) The Assembly may report to the Secretary of State the views expressed in the Assembly on the proposed Order and shall do so if the Secretary of State so requests.
- (6) The draft laid under subsection (3) must be accompanied—
  - (a) if representations have been made during the period mentioned in subsection (4), by a statement containing a summary of the representations;
  - (b) if a report has been made to the Secretary of State under subsection (5) during that period, by a copy of the report; and
  - (c) if, as a result of any representations or report so made, the proposed Order has been changed, by a statement containing details of the changes.
- (7) Subsection (3) does not apply to an Order in Council which 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 that subsection.
- (8) Where an Order in Council contains a declaration such as is mentioned in subsection (7)—
  - (a) the Order shall be laid before Parliament after being made; and
  - (b) if at the end of the period of 40 days after the date on which the Order is made it has not been approved by resolution of each House, it shall then cease to

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have effect (but without prejudice to anything previously done under it or to the making of a new Order).

- (9) In reckoning the periods mentioned in subsections (4) and (8), 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.
- (10) References to Acts of the Assembly in any enactment or instrument shall, so far as the context permits, be deemed to include references to Orders in Council under this section.
- (11) Orders in Council under this section may be omitted from any annual edition of statutory instruments made by virtue of section 8 of the <sup>M1</sup>Statutory Instruments Act 1946.
- (12) In this section “representations” means representations about a proposed Order in Council under this section made to the Secretary of State and includes—
  - (a) any relevant resolution of either House of Parliament or of the Assembly; and
  - (b) any relevant report or resolution of any committee of either House of Parliament or of the Assembly.

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

**C3** S. 85(3)-(8) excluded (N.I.) (27.7.1999) by 1999 c. 23, ss. 66(1)

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**Marginal Citations**

**M1** 1946 c.36.

## **86 Provision for purposes consequential on Act etc.**

- (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 4 or 6.
- (2) Orders under subsection (1) may make provision for transferring to a United Kingdom authority, with effect from any date specified in the Order—
  - (a) any functions which immediately before that date are exercisable by a Northern Ireland authority and appear to Her Majesty to be concerned with a matter which is an excepted or reserved matter (whether by virtue of an Order under section 4 or otherwise);
  - (b) any functions which immediately before that date are exercisable by a Northern Ireland authority and appear to Her Majesty not to be exercisable in or as regards Northern Ireland by virtue of an Order under section 6.
- (3) Orders under subsection (1) may make provision for transferring to a Northern Ireland authority, with effect from any date specified in the Order—
  - (a) any functions which immediately before that date are exercisable by a United Kingdom authority and appear to Her Majesty to be concerned with a matter which is a transferred matter (whether by virtue of an Order under section 4 or otherwise);

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- (b) any functions which immediately before that date are exercisable by a United Kingdom authority and appear to Her Majesty to be exercisable in or as regards Northern Ireland by virtue of an Order under section 6.
- (4) An Order under subsection (1) may make provision, 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 4 or 6—
  - (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.
- (5) Where such provision as is mentioned in subsection (3)(b) has been made by Order in Council under subsection (1), Her Majesty may, if it appears to Her necessary or expedient to do so, by Order in Council—
  - (a) provide that the functions transferred to the Northern Ireland authority shall be exercisable by a United Kingdom authority, either alone or concurrently with the Northern Ireland authority; and
  - (b) make such provision as is mentioned in subsection (4)(a) to (c).
- (6) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.
- (7) In this section “Northern Ireland authority” means—
  - (a) a Minister or a Northern Ireland department;
  - (b) the Comptroller and Auditor General for Northern Ireland; or
  - (c) any other public body or holder of public office in Northern Ireland.
- (8) In this section “United Kingdom authority” means—
  - (a) the Privy Council;
  - (b) any Minister of the Crown;
  - (c) the Defence Council;
  - (d) the Commissioners of Inland Revenue;
  - (e) the Commissioners of Customs and Excise;
  - (f) the Comptroller and Auditor General; or
  - (g) any other public body or holder of public office in the United Kingdom.

VALID FROM 11/03/2009

**[<sup>F2</sup>86A Provision for transfer of functions relating to extradition etc.**

- (1) Her Majesty may by Order in Council make provision amending—
  - (a) the Crime (International Co-operation) Act 2003; or
  - (b) the Extradition Act 2003,
 for the purpose of transferring to a Minister or a Northern Ireland department, with effect from any date specified in the Order, any relevant function under the Act.
- (2) In subsection (1) “relevant function” means a function which, immediately before the date specified in the Order,—

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- (a) is exercisable by a Minister of the Crown; and
  - (b) is exercisable in relation to Northern Ireland.
- (3) An Order under subsection (1) may make provision, to such extent as may appear to Her Majesty to be necessary or expedient in consequence of, or for giving full effect to, the Order—
- (a) for transferring or apportioning any property, rights or liabilities;
  - (b) for substituting any body or person for any other body or person in any charter, contract or other document or in any legal proceedings;
  - (c) for any other transitional or consequential matter.
- (4) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

- F2** S. 86A inserted (11.3.2009) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), **ss. 19, 31**; S.I. 2009/448, **art. 2**

VALID FROM 11/03/2009

#### [<sup>F3</sup>86B Provision for entrenching enactments

- (1) Her Majesty may by Order in Council make provision amending section 7 so as to provide for—
- (a) enactments to become entrenched; or
  - (b) enactments that are entrenched by virtue of an Order under paragraph (a) to cease to be entrenched.
- (2) For the purposes of this section an enactment is entrenched if section 7 prevents it from being modified by an Act of the Assembly or subordinate legislation made, confirmed or approved by a Minister or Northern Ireland department.
- (3) No recommendation shall be made to Her Majesty to make an Order under this section unless a draft of it has been laid before and approved by resolution of each House of Parliament.]

#### Textual Amendments

- F3** S. 86B inserted (11.3.2009) by [Northern Ireland \(Miscellaneous Provisions\) Act 2006 \(c. 33\)](#), **ss. 20, 31**; S.I. 2009/448, **art. 2**

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