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SCHEDULES

SCHEDULE 4A

DEPARTMENT WITH POLICING AND JUSTICE FUNCTIONS

[F1PART 2

DEPARTMENT IN THE CHARGE OF TWO MINISTERS

Textual Amendments

F1   Sch. 4A inserted (11.3.2009) by Northern Ireland (Miscellaneous Provisions) Act 2006 (c. 33), ss. 17, 31, **Sch. 2** (as amended (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 8, 9, 27, Sch. 5 paras. 8-14, Sch. 6 (with s. 1(3)); S.I. 2007/1397, art. 2 (which amending Act was itself amended (27.3.2007) by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) and as amended (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), ss. 44, 53, Sch. 5 paras. 2, 3; S.I. 2009/446, art. 3); S.I. 2009/448, **art. 2**

Introduction

4   (1) This Part of this Schedule has effect in relation to a Northern Ireland department—

       (a)   the functions of which consist wholly or mainly of devolved policing and justice functions; and

       (b)   in relation to which an Act of the Assembly provides, by virtue of section 21A(4), for it to be in the charge of two Northern Ireland Ministers acting jointly (the "relevant Ministers").

     (2) In this paragraph "devolved policing and justice function" has the same meaning as in section 21A (see subsection (8) of that section).

Modification of section 16A

4A   Section 16A(3) shall have effect as if, for paragraph (b) (and the word "and" before it) there were substituted—

       (aa)   once those offices have been filled, the relevant Ministerial offices (within the meaning of Part 2 of Schedule 4A) shall be filled by applying paragraph 7(3) to (6) of that Schedule; and

       (b)   once those offices have been filled, the other Ministerial offices to be held by Northern Ireland Ministers shall be filled by applying section 18(2) to (6).

Modifications of section 17

5   (1) Section 17 (Ministerial offices) has effect subject to the following modifications.

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(2) Subsection (3) has effect subject to the provision of the Act of the Assembly referred to in paragraph 4(1)(b).

(3) The Ministerial offices held by the relevant Ministers (the "relevant Ministerial offices") are to count as a single Ministerial office for the purposes of subsection (4).

Section 18 not to apply to relevant Ministers

6   (1) Section 18 (Northern Ireland Ministers) shall not apply in relation to—
     (a)   the relevant Ministers; or
     (b)   the relevant Ministerial offices,
     and paragraph 7 shall apply instead.

     (2) But the references to Ministerial offices in—
     (a)   subsection (1)(c) and (d) of section 18; and
     (b)   subsection (5) of that section (in the definition of M),
     shall be taken to include the relevant Ministerial offices.

Provisions relating to relevant Ministers

7   (1) Where any of the conditions in paragraphs (b) to (e) of section 18(1) is satisfied—
     (a)   the relevant Ministers shall (if holding office at the time) cease to hold office; and
     (b)   the relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

     (2) The relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) before section 18(2) to (6) is applied in relation to the other Ministerial offices.

     (3) The First Minister and the deputy First Minister acting jointly shall nominate two members of the Assembly to hold the relevant Ministerial offices.

     (3A) But a member of the Assembly who is a member of a political party may not be nominated unless the nominating officer of the party consents to his nomination within a period specified in standing orders.

     (4) The nomination shall not take effect unless it is approved by a resolution of the Assembly passed with the support of—
     (a)   a majority of the members voting on the motion for the resolution;
     (b)   a majority of the designated Nationalists voting; and
     (c)   a majority of the designated Unionists voting.

     (5) If—
     (a)   the nomination does not take effect within a period specified in standing orders; or
     (b)   the nominated persons do not take up the offices for which they have been nominated within that period,
     a further nomination of two members of the Assembly shall be made under sub-paragraph (3).

     (6) Sub-paragraphs (3) to (5) shall be applied as many times as may be necessary to secure that the relevant Ministerial offices are filled.

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(7) The holding of office as First Minister or deputy First Minister shall not prevent a person being nominated to hold a relevant Ministerial office.

(8) The relevant Ministers—

    (a)   shall not take up office until each of them has affirmed the terms of the pledge of office; and

    (b)   must take up office at the same time as each other.

(9) A relevant Minister shall cease to hold office if—

    (a)   he resigns by notice in writing to the First Minister and the deputy First Minister;

    (b)   he ceases to be a member of the Assembly otherwise than by virtue of a dissolution; or

    (c)   he is dismissed by the First Minister and the deputy First Minister acting jointly and the Presiding Officer is notified of his dismissal; or

    (d)   where consent to his nomination was required under sub-paragraph (3A), he is dismissed by the nominating officer who consented (or that officer's successor) and the Presiding Officer is notified of his dismissal.

(10) If either of the relevant Ministers ceases to hold office at any time, otherwise than by virtue of sub-paragraph (1)—

    (a)   the other shall also cease to hold office at that time; and

    (b)   the relevant Ministerial offices shall be filled by applying sub-paragraphs (3) to (6) within a period specified in standing orders.

(10A) If, as a result of the relevant Ministers ("the former Ministers") ceasing to hold office and the relevant Ministerial offices being filled by virtue of sub-paragraph (10)(b),—

    (a)   the total number of Ministerial offices held by members of a political party increases; or

    (b)   the total number of Ministerial offices held by members of a political party decreases,

all other Northern Ireland Ministers shall cease to hold office and those Ministerial offices shall be filled by applying section 18(2) to (6) within a period specified in standing orders.

(10B) But sub-paragraph (10A) shall not apply if—

    (a)   either of the former Ministers ceased to hold office by virtue of being dismissed by a nominating officer under sub-paragraph (9)(d); and

    (b)   before the relevant Ministerial offices were filled, either of the conditions in sub-paragraph (10C) was satisfied in relation to each member of the Assembly who was a member of the political party of the nominating officer concerned.

(10C) The conditions are that—

    (a)   the First Minister and the deputy First Minister sought to nominate the member under sub-paragraph (3) for one of the relevant Ministerial offices but consent to his nomination was not given in accordance with sub-paragraph (3A); or

    (b)   the member was nominated under sub-paragraph (3) for one of the relevant Ministerial offices and the nomination took effect within the period specified in standing orders by virtue of sub-paragraph (5)(a), but the member did not take up the office within that period.

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(11) Where—

    (a)   the Assembly has resolved under section 30(2) that a political party does not enjoy its confidence; and

    (b)   the party's period of exclusion under that provision has not come to an end,

no member of that party may be nominated under sub-paragraph (3).

(12) Where—

    (a)   the Secretary of State has given a direction under section 30A(5) in respect of a political party; and

    (b)   the party's period of exclusion under that provision has not come to an end,

no member of that party may be nominated under sub-paragraph (3).

(13) In this paragraph, a reference to a period of exclusion under any provision is, in the case of a period of exclusion under that provision which has been extended, a reference to that period as extended.

(14) In this paragraph "nominating officer" has the same meaning as in section 18.]

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Changes to legislation:
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