



# Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003

## CHAPTER 12

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# Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003

## 2003 CHAPTER 12

An Act to make further provision about the election of the next Northern Ireland Assembly; to make further provision about periods when section 1 of the Northern Ireland Act 2000 is in force; and for connected purposes.

[15th May 2003]

**B**E 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 Election of next Assembly

- (1) The Northern Ireland Act 1998 (c. 47) (in this Act referred to as “the 1998 Act”) is amended as provided in subsections (2) and (3).
- (2) In section 31 (which provides for dates of Assembly elections and dissolutions, etc), for subsection (2) there is substituted—
  - “(2) The date of the poll for the election of the Assembly next following the Assembly elected under section 2 of the Northern Ireland (Elections) Act 1998 (and dissolved on 28th April 2003) shall be a date to be specified in an order made by the Secretary of State.”
- (3) Section 96 is amended as follows—
  - (a) in subsection (2), after “section” there is inserted “31(2),”,
  - (b) after subsection (2) there is inserted—
    - “(2A) Paragraph (b) of subsection (2) does not apply to an order under section 31(2) if the order declares that the Secretary of State considers it to be expedient for the order to be made without the approval mentioned in that paragraph.
    - (2B) An order containing a declaration under subsection (2A)—

- (a) shall be laid before Parliament after being made; and
    - (b) shall cease to have effect if it is not approved by a resolution of each House of Parliament before the end of the period of 28 days beginning with the date on which it is made.
  - (2C) Subsection (2B)(b) does not prejudice the making of a new order.
  - (2D) In calculating the period of 28 days mentioned in subsection (2B)(b), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.”
- (4) The following apply in relation to the ordinary general election the poll for which is to be held on the date specified in an order under section 31(2) of the 1998 Act –
- (a) the entry for Rule 1 of the Parliamentary Elections Rules (timetable) in Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001 (SI 2001/2599) (which provides for the application with modifications to Assembly elections of provisions of the Representation of the People Act 1983 (c. 2) and other Acts) is to have effect as if the first entry in the second column of the substituted Timetable (which relates to publication of notice of an election) read “Not later than the 20th day before the date of the poll.”, and
  - (b) paragraph 7 of each of Schedules 9 and 10 to the Political Parties, Elections and Referendums Act 2000 (c. 41) (which provide for limits on campaign expenditure and controlled expenditure respectively in relation to Assembly elections) is to have effect as if “the relevant period” for the purposes of that paragraph were the period beginning with the date when the order under section 31(2) of the 1998 Act is made and ending with the date of the poll (and sub-paragraphs (3) and (4) of that paragraph are not to apply).
- (5) In section 1 of the Northern Ireland Assembly Elections Act 2003 (c. 3) (dates of election, etc), the following are repealed –
- paragraph (a) of subsection (2),
  - subsections (3) to (6).

## **2 May election: supplementary provisions**

- (1) Any step taken pursuant to the Election Rules in connection with the May election –
  - (a) shall cease to have effect in relation to that election, and
  - (b) is not to have effect in relation to any other election.
- (2) This applies, for example, to the delivery of any nomination paper in connection with the May election.
- (3) Any deposit made for the purposes of the May election is to be returned.
- (4) In this section, the “Election Rules” means the rules in Schedule 1 to the Representation of the People Act 1983, as applied by Article 3 of and Schedule 1 to the Northern Ireland Assembly (Elections) Order 2001.

### **3 Payments relating to May election**

- (1) The Secretary of State may make payments, in accordance with a scheme under this section, in connection with the May election.
- (2) The scheme must provide for the payments to be made to—
  - (a) registered parties, in connection with campaign expenditure, and
  - (b) candidates at the May election, in connection with their election expenses.
- (3) The scheme must make provision for—
  - (a) what is to count as campaign expenditure or as election expenses (including any period during which it or they must have been incurred in order to count),
  - (b) who is to count as a candidate,
  - (c) a ceiling on payments that may be made under the scheme (or different ceilings for different descriptions of payment), and
  - (d) arrangements for claiming, verifying and making the payments (including any date by which claims must be made),and it may make provision for anything else which is relevant for the purposes of the scheme.
- (4) The scheme may, in particular, provide for campaign expenditure which would have counted towards the total by virtue of section 1(5) of the Northern Ireland Assembly Elections Act 2003 (c. 3) to count correspondingly for the purposes of payments under the scheme.
- (5) The Electoral Commission must submit recommendations to the Secretary of State for the terms of the scheme.
- (6) When the Secretary of State receives the recommendations, he must make a scheme in terms which either give effect to those recommendations, or which do so with any modifications he thinks appropriate.
- (7) The Secretary of State must publish the scheme which he makes, and he may do so in any way which appears appropriate to him.
- (8) Payments made under a scheme under this section are to be made out of money provided by Parliament.
- (9) In this section, “registered party” has the same meaning as in the Political Parties, Elections and Referendums Act 2000 (c. 41).

### **4 Remuneration of members of the Assembly**

- (1) In relation to the dissolution of the Assembly on 28th April 2003 and the next Assembly election, section 47 of the 1998 Act (remuneration of members) is to have effect as if, for subsection (10) of that section, there were substituted—
  - “(10) For the purposes of this section, a person who is a member of the Assembly immediately before the Assembly is dissolved shall be treated—
    - (a) as if he were a member of the Assembly until the end of the day which is the latest day for the delivery of nomination papers for the next Assembly election; and

- (b) if he is nominated as a candidate at the next Assembly election, as if he were a member of the Assembly until the end of the day of the poll for that election.”
- (2) Subsection (1) does not affect an entitlement any person has by virtue of section 47(10) of the 1998 Act in respect of any period before the passing of this Act.
- (3) While section 1 of the Northern Ireland Act 2000 (c. 1) is in force, references in subsections (1) and (2) to section 47 of the 1998 Act are to be read with paragraph 9 of the Schedule to the 2000 Act.
- (4) In this section, “the next Assembly election” means the election the poll for which is to be held on the date specified in an order under section 31(2) of the 1998 Act (as substituted by section 1(2) of this Act).

## 5 Supplementary provisions

- (1) The Schedule to the Northern Ireland Act 2000 (provisions applicable during suspension) is amended as follows.
- (2) In paragraph 7 (subordinate instruments, etc), after sub-paragraph (6) there is inserted –
  - “(6A) Without prejudice to any requirement under this Schedule, so much of any enactment or instrument as requires any instrument or document to be laid before the Assembly does not apply during any period while section 1 is in force when the Assembly is dissolved.”
- (3) In paragraph 11 (audit), after sub-paragraph (3) there is added –
  - “(4) While section 1 is in force, Article 6(2) of the Audit (Northern Ireland) Order 1987 (expenses and accounts of Northern Ireland Audit Office) shall have effect as if for the words “the committee established under section 66 of the Northern Ireland Act 1998”, and “that committee”, there were substituted “the Department”.”
- (4) After paragraph 11, there is added –

### *“Use of resources and resource accounts*

- 11A While section 1 is in force, the Government Resources and Accounts Act (Northern Ireland) 2001 shall have effect as if –
  - (a) in section 6(4), for the words “an estimate is approved by the Assembly for that body or person in respect of each financial year” there were substituted “an estimate was approved by the Assembly for that body or person in respect of the financial year ending 31st March 2003”;
  - (b) in section 9(1), for the words “A Northern Ireland department for which an estimate is approved by the Assembly in respect of a financial year shall prepare accounts (to be known as resource accounts) for that year” there were substituted “Each Northern Ireland department shall prepare accounts (to be known as resource accounts) for each financial year”; and
  - (c) in section 13(1), for the words “an estimate is approved by the Assembly for any body or person in respect of any financial year” there were substituted “the use of resources by any

body or person is authorised in respect of any financial year by Act of the Assembly”.

- (5) In paragraph 13 (Ombudsman and Commissioner for Complaints), after subparagraph (2) there is added –

“(3) During any period while section 1 is in force when the Assembly is dissolved, any complaint under the Ombudsman (Northern Ireland) Order 1996 may be made to, and referred to the Ombudsman by, a member of the House of Commons; and references to a member of the Assembly in Articles 9, 11, 16 and 18 of that Order shall be construed accordingly.”

- (6) After paragraph 13, there is added –

*“Financial assistance for political parties*

- 14 While section 1 is in force, the Financial Assistance for Political Parties Act (Northern Ireland) 2000 shall have effect as if –

- (a) in section 1, for the words “assisting members of the Assembly who are connected with such parties to perform their Assembly duties” there were substituted “assisting them to engage in political discussions about a return to devolved government”; and  
 (b) in section 2(2), paragraph (c) were omitted.”

## 6 Modification of enactments

- (1) The Secretary of State may by order made by statutory instrument make such modifications of enactments as appear to him to be necessary or expedient in consequence of, or in connection with, any provision made by, or under, this Act.
- (2) An order under subsection (1) may, in particular, make provision modifying any duty of the Chief Electoral Officer for Northern Ireland whereby (apart from the order) he must perform any function or discharge any duty on or by reference to any particular date.
- (3) An order under subsection (1) may also make such supplementary, incidental or consequential provision as the Secretary of State considers necessary or expedient.
- (4) In subsection (1), “enactment” includes –
- (a) a provision of an Act (including this Act),
- (b) a provision of, or any instrument made under, Northern Ireland legislation,
- (c) a provision of subordinate legislation (within the meaning of the Interpretation Act 1978 (c. 30)).
- (5) An order under subsection (1) may not be made unless a draft of the order has been approved by a resolution of each House of Parliament.
- (6) Subsection (5) does not apply to an order under subsection (1) if the order declares that the Secretary of State considers it to be expedient for the order to be made without the approval mentioned in that subsection.
- (7) An order containing a declaration under subsection (6) –

- (a) must be laid before Parliament after being made, and
  - (b) ceases to have effect if it is not approved by a resolution of each House of Parliament before the end of the period of 40 days beginning with the date on which it is made.
- (8) Subsection (7)(b) does not prejudice –
- (a) anything done as a result of the order before it ceased to have effect, or
  - (b) the making of a new order.
- (9) In calculating the period of 40 days mentioned in subsection (7)(b), no account is to 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 Renewal of powers under section 1**

- (1) Unless subsection (4) applies –
- (a) the following provisions of the 1998 Act –
    - (i) section 31(2),
    - (ii) the word “31(2),” in section 96(2), and
    - (iii) section 96(2A) to (2D),(all as substituted or inserted by subsections (1) to (3) of section 1 of this Act), and
  - (b) subsection (4) of section 1,
- together collectively referred to below as “the temporary provisions”, remain in force until the end of 15th November 2003 and then expire if not continued in force by an order under subsection (2).
- (2) The Secretary of State may by order made by statutory instrument provide that the temporary provisions are to continue in force for a period, or further period, in each case not exceeding six months from the coming into force of the order.
- (3) An order under subsection (2) may not be made unless a draft of the order has been approved by a resolution of each House of Parliament.
- (4) This subsection applies if an order is made, at any time, under section 31(2) of the 1998 Act, as substituted by section 1(2) of this Act.
- (5) If subsection (4) applies, the temporary provisions do not expire, and the provision to the contrary in subsection (1) ceases to apply.
- (6) If the temporary provisions expire, the Secretary of State must by order made by statutory instrument make such amendments of enactments as appear to him to be necessary or expedient in consequence of the expiry.
- (7) Subsections (4) to (7), and (9), of section 6 apply to an order under subsection (6) as they apply to an order under subsection (1) of that section.
- (8) If by virtue of section 6(7)(b), as applied by subsection (7) of this section, the order under subsection (6) ceases to have effect, the amendments made by the order also cease to have effect, but this does not prejudice the making of a new order.

## **8 Short title and interpretation**

- (1) This Act may be cited as the Northern Ireland Assembly (Elections and Periods of Suspension) Act 2003.
- (2) In this Act—
  - (a) “the 1998 Act” means the Northern Ireland Act 1998 (c. 47),
  - (b) “Assembly” means Northern Ireland Assembly,
  - (c) “the May election” means the election of the Assembly the poll for which was to have taken place on 29th May 2003.