

NORTHERN IRELAND (MONITORING COMMISSION ETC.) ACT 2003

EXPLANATORY NOTES

SUMMARY AND BACKGROUND

3. The Act generally reflects the Agreement on Monitoring and Compliance between the British and Irish Governments, published on 1 May 2003 in the light of discussions between the two Governments and Northern Ireland political parties at Hillsborough in Spring 2003 and placed in the libraries of both Houses. That Agreement was part of a package of proposals published on 1 May aimed at rebuilding the trust and confidence in Northern Ireland necessary to permit the restoration of devolved institutions on a stable and inclusive basis and the full implementation of the Belfast (or Good Friday) Agreement of 10 April 1998. It envisaged the establishment of an Independent Monitoring Commission (“the Commission”) to monitor and report on the carrying out of various commitments deriving from the Belfast Agreement and its continuing implementation, and, where it considered that a party represented in the Northern Ireland Assembly (“the Assembly”) or a Minister of the devolved administration had breached those commitments, to recommend whatever measures it considered appropriate. The Agreement on Monitoring and Compliance also set out the procedures to be adopted following such a report and provided that the Northern Ireland Act 1998 (“the 1998 Act”) should be amended to provide the necessary powers for the Northern Ireland Assembly and the British Government to respond to the Commission’s recommendations.
4. It is proposed that the Commission will be established by means of an International Agreement between the British and Irish Governments (“the Treaty”). A draft of the Treaty was made publicly available on 4 September 2003, and a copy has been placed in the libraries of both Houses. It has yet to be signed and ratified by the two Governments in line with their respective procedures.
5. Under the draft Treaty, the Commission will have four, independent, members:
 - two appointed by the British Government (of whom one will be from Northern Ireland);
 - one appointed by the Irish Government; and
 - a member from the United States, jointly appointed by the British and Irish Governments.
6. The names of the Commissioners were made publicly available on 4 September 2003. A copy of the press release has been placed in the libraries of both Houses.
7. The Commission’s functions are set out in detail in Articles 4 to 7 of the draft Treaty. Articles 4 and 5 provide that the Commission will monitor the incidence of paramilitary activity and any programme of security normalisation undertaken by the British Government in the context of acts of completion by paramilitaries. It may also

*These notes refer to the Northern Ireland (Monitoring Commission etc.)
Act 2003 (c.25) which received Royal Assent on 18th September 2003*

be invited by the British Government to report on normalisation (in terms set out in that invitation).

8. Article 6 of the draft Treaty provides that the Commission¹ will have the capacity to investigate complaints by Assembly parties that:
 - a Minister or junior Minister in the Northern Ireland administration, or another party in the Assembly, is not committed to non-violence and exclusively peaceful and democratic means; or
 - that a Minister or junior Minister has failed to observe any other terms of the pledge of office; or
 - that a party represented in the Assembly is not committed to such of its members as are or might become Ministers observing the other terms of the pledge of office.
9. When reporting in relation to its duties under Article 4 and 6 of the Treaty, the Commission will be able recommend what remedial action might be taken in response to its findings; and what measures it considers the Assembly might consider taking against the relevant Assembly party or Minister (Article 7). The Commission's reports will be submitted to the two Governments, or in the case of a report under Article 6(2), to the British Government (Article 9).

¹ In so far as a complaint under article 6(1) of the draft Treaty relates to the operation of the institutional arrangements under Strand One of the Belfast Agreement, the complaint shall be considered only by those members of the Commission appointed by the British Government, and the report of those members will be made to the British Government alone.