



# Northern Ireland (Monitoring Commission etc.) Act 2003

## 2003 CHAPTER 25

### *Exclusion from Ministerial office*

#### **5 Secretary of State's powers in relation to exclusion**

(1) After section 30 of the Northern Ireland Act 1998 (c. 47) there is inserted—

#### **“30A Secretary of State's powers in relation to exclusion**

- (1) This section applies if—
- (a) the Monitoring Commission has, or members of that Commission have under the agreement establishing it, made a report containing a recommendation about steps the Assembly might consider taking;
  - (b) the taking of those steps by the Assembly requires the passing by it of a resolution under section 30(1), (1A), (2) or (3) in relation to a Minister, junior Minister or political party; and
  - (c) the first motion for a resolution under that provision in relation to the Minister, junior Minister or political party concerned that is put to the vote after the making of the report does not attract cross-community support.
- (2) Where this section applies because of the failure of a motion for a resolution under section 30(1), the Secretary of State may by direction exclude the Minister or junior Minister concerned from holding office as a Minister or junior Minister for such period of not less than three months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (4)).
- (3) Where this section applies because of the failure of a motion for a resolution under section 30(1A), the Secretary of State may, before the period of exclusion to which the motion related comes to an end, by direction extend it until the end of such period of not less than three months, and not more than

twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (4)).

- (4) The Secretary of State may exercise the power under subsection (2) or (3) only if he is satisfied that the Minister or junior Minister concerned—
- (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) has failed to observe any other terms of the pledge of office.
- (5) Where this section applies because of the failure of a motion for a resolution under section 30(2), the Secretary of State may by direction exclude members of the political party concerned from holding office as Ministers or junior Ministers for such period of not less than six months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (7)).
- (6) Where this section applies because of the failure of a motion for a resolution under section 30(3), the Secretary of State may, before the period of exclusion to which the motion related comes to an end, by direction extend it until the end of such period of not less than six months, and not more than twelve months, beginning with the date of the direction as the direction may provide (subject to subsection (7)).
- (7) The Secretary of State may exercise the power under subsection (5) or (6) only if he is satisfied that the political party concerned—
- (a) is not committed to non-violence and exclusively peaceful and democratic means; or
  - (b) is not committed to such of its members as are or might become Ministers or junior Ministers observing the other terms of the pledge of office.
- (8) A period of exclusion under subsection (2) or (5) shall come to an end if—
- (a) the Secretary of State by direction so provides; or
  - (b) the Assembly is dissolved.
- (9) In subsection (1)(a) “the Monitoring Commission” means the Commission mentioned in section 1 of the Northern Ireland (Monitoring Commission etc.) Act 2003.
- (10) In this section 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.”
- (2) In section 18 of that Act (which provides for the filling of Ministerial offices), in subsection (1) (occasions when offices are to be filled in accordance with the section), for paragraph (d) there is substituted—
- “(d) a direction which causes one or more Ministerial offices to become vacant is given under section 30A(5);
  - (da) a period of exclusion under section 30(2) or 30A(5) comes to an end; or.”
- (3) In subsection (12)(b) of that section (application of section where party excluded under section 30(2)), after “party’s period of exclusion” there is inserted “under that provision”.

(4) In that section, after subsection (12) there is inserted—

“(12A) 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,

the party shall be disregarded for the purposes of any application of subsections (2) to (6).”

(5) At the end of that section there is inserted—

“(14) In this section, 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.”

(6) In section 30 of that Act (exclusion of Ministers from office by resolution of the Assembly)—

- (a) in subsection (1A) (power to extend period of exclusion under subsection (1)), after “subsection (1)” there is inserted “or section 30A(2)”, and
- (b) in subsection (3) (power to extend period of exclusion under subsection (2)), after “subsection (2)” there is inserted “or section 30A(5)”.