



# Northern Ireland (Miscellaneous Provisions) Act 2006

## 2006 CHAPTER 33

### PART 4 **U.K.**

#### DEVOLUTION OF POLICING AND JUSTICE ETC.

#### 16 **Conditions for devolving policing and justice matters** **U.K.**

- (1) Amend section 4 of the 1998 Act (transferred, excepted and reserved matters) as follows.
- (2) In subsection (2), for “subsection (3)” substitute “ subsections (2A) and (3) ”.
- (3) After subsection (2) insert—
  - “(2A) The Secretary of State shall not lay before Parliament under subsection (2) the draft of an Order amending Schedule 3 so that a [<sup>F1</sup>policing and justice matter]<sup>F1</sup> ceases to be a reserved matter unless—
    - (a) a motion for a resolution praying that the matter should cease to be a reserved matter is tabled by the First Minister and the deputy First Minister acting jointly; and
    - (b) the resolution is passed by the Assembly with the support of a majority of the members voting on the motion, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.”
- (4) In subsection (3), for “the draft of an Order before Parliament under subsection (2)” substitute “ before Parliament under subsection (2) the draft of any other Order ”.
- (5) After subsection (5) insert—
  - “(6) In this section [<sup>F2</sup> “policing and justice matter” ]<sup>F2</sup> means a matter falling within a description specified in—12
    - (a) any of paragraphs 9 to 12, 14A to 15A and 17 of Schedule 3; or

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(b) any other provision of that Schedule designated for this purpose by an order made by the Secretary of State.”

(6) In this Part “the 1998 Act” means the Northern Ireland Act 1998 (c. 47).

#### Textual Amendments

- F1** Words in s. 16(3) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(5), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2
- F2** Words in s. 16(5) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), ss. 18(6), 27(4)(5) (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, art. 2

## 17 Department with policing and justice functions **U.K.**

(1) After section 21 of the 1998 Act insert—

### “21A Northern Ireland department with policing and justice functions

[<sup>F3</sup>(1) An Act of the Assembly that—

- (a) establishes a new Northern Ireland department; and
- (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions,

may (but need not) make provision of the kind mentioned in subsection (3), (4), (5) or (5A).]

<sup>F3</sup>(3) The Act may provide for the department to be in the charge of a Northern Ireland Minister appointed by virtue of a nomination—

- (a) made by the First Minister and the deputy First Minister acting jointly; and
- (b) approved by a resolution of the Assembly passed with the support of a majority of the members voting on the motion for the resolution, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

(4) The Act may provide for the department to be in the charge of two Northern Ireland Ministers acting jointly.

(5) The Act may provide—

- (a) for the department to be in the charge of a Northern Ireland Minister who is supported by a junior Minister; and
- (b) for the persons holding those offices to rotate at intervals determined by or under the Act, so that the person who was the Minister in charge of the department becomes the junior Minister and the person who was the junior Minister becomes the Minister.

[<sup>F4</sup>(5A) The Act may provide—

- (a) for the department to be in the charge of a Northern Ireland Minister elected by the Assembly; and

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- (b) for that Minister to be supported by a deputy Minister elected by the Assembly.]
- <sup>F4</sup>(6) There must not, at any time, be more than one department in relation to which provision of the kind mentioned in any of subsections (3), (4) [<sup>F5</sup>, (5) and (5A)]<sup>F5</sup> is made by Act of the Assembly [<sup>F6</sup>, or by Order in Council under subsection (7C)]<sup>F6</sup>.
- (7) Schedule 4A (provisions relating to a department with devolved policing and justice functions) shall have effect.
- [<sup>F7</sup>(7A) If it appears to the Secretary of State that there is no reasonable prospect that the Assembly will pass an Act of the kind described in subsection (1)(a) and (b), he may lay before Parliament the draft of an Order in Council which—
- (a) establishes a new Northern Ireland department;
  - (b) provides that the purpose of the department is to exercise functions consisting wholly or mainly of devolved policing and justice functions;
  - (c) provides for the department to be in the charge of a Northern Ireland Minister elected by the Assembly and for that Minister to be supported by a deputy Minister elected by the Assembly; and
  - (d) provides for Part 3A of Schedule 4A to apply in relation to the department (with any necessary modifications).
- (7B) The draft of an Order laid before Parliament under subsection (7A) may contain supplementary, incidental, consequential, transitional or saving provision.
- (7C) If the draft of an Order laid before Parliament under subsection (7A) is approved by resolution of each House of Parliament, the Secretary of State shall submit it to Her Majesty in Council and Her Majesty in Council may make the Order.
- (7D) No more than one department may be established by virtue of an Order under subsection (7C).]
- <sup>F7</sup>(8) In this section “devolved policing and justice function” means a function relating to a matter which—
- (a) is a transferred matter by virtue of an Order under section 4; and
  - (b) immediately before the matter became a transferred matter, was a [<sup>F8</sup>policing and justice matter]<sup>F8</sup> (within the meaning given by section 4(6)).”
- (2) After Schedule 4 to the 1998 Act insert the Schedule 4A set out in Schedule 2 to this Act.

#### Textual Amendments

- F3** Words in s. 17(1) substituted (11.3.2009) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 44\(2\), 53; S.I. 2009/446, art. 3](#)
- F4** Words in s. 17(1) inserted (11.3.2009) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 44\(3\), 53; S.I. 2009/446, art. 3](#)
- F5** Words in s. 17(1) substituted (11.3.2009) by [Justice and Security \(Northern Ireland\) Act 2007 \(c. 6\), ss. 44\(4\)\(a\), 53; S.I. 2009/446, art. 3](#)

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- F6** Words in s. 17(1) inserted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 44(4)(b), 53**; S.I. 2009/446, **art. 3**
- F7** Words in s. 17(1) inserted (11.3.2009) by Justice and Security (Northern Ireland) Act 2007 (c. 6), **ss. 44(5), 53**; S.I. 2009/446, **art. 3**
- F8** Words in s. 17(1) substituted (8.5.2007) by Northern Ireland (St Andrews Agreement) Act 2006 (c. 53), **ss. 18(7), 27(4)(5)** (as amended by Northern Ireland (St Andrews Agreement) Act 2007 (c. 4), s. 1(1)) (with s. 1(3)); S.I. 2007/1397, **art. 2**

## 18 Power of Assembly to call for witnesses and documents **U.K.**

In section 44 of the 1998 Act (power to call for witnesses and documents), after subsection (4) insert—

“(4A) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a function which relates to a matter which is a transferred matter by virtue of an Order under section 4.

For this purpose “relevant period” means a period when the matter was not a transferred matter.

(4B) That power is not exercisable in relation to a person mentioned in subsection (4) in connection with the discharge, during a relevant period, of a statutory function which—

- (a) is exercisable by a Minister or a Northern Ireland department; but
- (b) was at any time exercisable by a Minister of the Crown.

For this purpose “relevant period” means a period when the statutory function was exercisable by a Minister of the Crown.”

## 19 Provision for transfer of functions relating to extradition etc. **U.K.**

After section 86 of the 1998 Act insert—

### “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,—

- (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;

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- (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.”

## 20 Provision for entrenching enactments **U.K.**

After section 86A of the 1998 Act insert—

### “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.”

**Changes to legislation:**

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