

# NORTHERN IRELAND (ST ANDREWS AGREEMENT) ACT 2006

---

## EXPLANATORY NOTES

### COMMENTARY ON SECTIONS

#### *Schedule 1: the Transitional Assembly*

95. [Schedule 1](#) makes provision relating to the operation of the Transitional Assembly. Paragraph 1(1) provides that the Presiding Officer will have the authority to specify when and where the Transitional Assembly will meet and that the Assembly must meet on 24 November 2006. Paragraph 1(2) provides that the Secretary of State may instead direct the Transitional Assembly to meet at a certain time and place. It is envisaged that paragraph 1(2) will be used only where it appears necessary to ensure the successful operation of the Transitional Assembly.
96. [Paragraph 2\(1\)](#) provides that proceedings in the Transitional Assembly will be conducted in accordance with the standing orders (as defined in paragraph 9). Paragraph 2(2) provides that the Secretary of State may direct that proceedings are conducted differently; again it is envisaged that this provision will only be used where necessary to ensure the successful operation of the Transitional Assembly.
97. [Paragraph 3](#) provides for proceedings in the Transitional Assembly to include the nominations for the offices of First and deputy First Ministers of the Northern Ireland Assembly. Both Ministers would take up office when the Northern Ireland Assembly is restored. Paragraph 3(2) makes clear that the nominations may still take place despite the Northern Ireland Assembly being suspended under the 2000 Act.
98. [Paragraph 4](#) requires the Transitional Assembly to prepare a draft Ministerial Code before 24 March 2007. It specifies that any draft Code prepared under this paragraph must comply with the requirements set out in subsections (5) to (8) of new section 28A of the 1998 Act and that, if a draft Code has been approved before 24 March 2007 under the process set out in sub-paragraph (3) (that is, with cross-community support) it shall become the statutory Ministerial Code for the Northern Ireland Assembly. Future amendment or replacement of the Code would fall to be made under subsection (3) and (4) of new section 28A of the 1998 Act.
99. [Paragraph 4\(5\)](#) places a duty on the Secretary of State to prepare a draft Ministerial Code, in the event of failure on the part of the Transitional Assembly to prepare and approve the draft Ministerial Code before 24 March 2007. Any Code thus prepared would become the Ministerial Code required by new section 28A of the 1998 Act, until amended or replaced by a Code under subsection (3) and (4) of that section.
100. [Paragraph 4\(6\)](#) sets out the requirements of a draft Ministerial Code prepared by the Secretary of State under sub-paragraph (5) and provides that such a Code must, so far as is practicable, be in the form of the former, non-statutory Ministerial Code which applied to members of the Executive Committee of the Northern Ireland Assembly immediately prior to suspension, but subject to any parts of the draft Code approved by cross-community support in the Transitional Assembly prior to 24 March 2007. In

addition this Code must comply with the requirements set out in subsections (5) to (8) of section 28A of the 1998 Act. The Secretary of State would have no discretionary powers to include any provision in a draft Code under sub-paragraph (5) other than those mentioned above.

101. [Paragraph 5](#) requires the Transitional Assembly to prepare draft standing orders for the Northern Ireland Assembly before 24 March 2007. It specifies that if the draft standing orders are approved before that date under the process set out in sub-paragraph (3) (that is, with cross-community support) they shall become standing orders of the Northern Ireland Assembly.
102. [Paragraph 5\(4\)](#) places a duty on the Secretary of State to prepare draft standing orders, in the event of failure on the part of the Transitional Assembly to prepare and approve draft standing orders before 24 March 2007. The standing orders thus prepared would become the standing orders of the Northern Ireland Assembly, until amended or replaced by the Northern Ireland Assembly under section 41 of the 1998 Act.
103. [Paragraph 5\(5\)](#) sets out requirements for any draft standing orders prepared by the Secretary of State under sub-paragraph (4). It provides that these standing orders must, so far as is practicable, be in the form of the former standing orders of the Northern Ireland Assembly immediately prior to suspension, but subject to any amendments to the draft standing orders approved by cross-community support in the Transitional Assembly prior to 24 March 2007. In addition the standing orders must comply with the requirements set out in the 1998 Act (as it is to have effect on or after 26 March 2007) and may include other provisions.
104. [Paragraph 6\(1\)](#) provides that the Transitional Assembly will have a Presiding Officer and no more than three deputy Presiding Officers. Paragraph 6(2) and (3) provides that the Presiding Officer and deputy Presiding Officers of the Transitional Assembly will be those that held those offices in the Assembly established by the Northern Ireland Act 2006 immediately before Schedule 1 came into force.
105. [Paragraph 6\(4\)](#) provides that the Transitional Assembly may elect a person to fill any vacancy in the office of Presiding Officer or deputy Presiding Officer or replace a current office-holder if members believe that he/she is unable, unfit or unwilling to perform his/her functions. Paragraph 6(5) provides that any such election must be by cross-community vote (as defined in paragraph 11). Paragraph 6(6) provides that the Secretary of State may appoint a Presiding Officer or deputy Presiding Officer if a vacancy has arisen and the Transitional Assembly have not appointed someone to fill the vacancy within two weeks. If the Secretary of State believes that a Presiding Officer or deputy Presiding Officer is unfit, unable or unwilling to perform his/her functions, and the Officer has not been replaced by the Transitional Assembly within two weeks, under sub-paragraph (7) the Secretary of State may appoint a person to replace the Officer.
106. [Paragraph 7](#) provides that the Secretary of State must ensure the provision of staff, premises and other facilities, with sub-paragraph (2) providing for the cost of this to be met out of the Consolidated Fund of Northern Ireland. Paragraph 8 provides for any statement made by a member for the purposes of the Transitional Assembly to be privileged from action for defamation, unless proved to have been motivated by malice.
107. [Paragraph 9](#) deals with the standing orders of the Transitional Assembly (as opposed to the draft standing orders for the Northern Ireland Assembly that paragraph 5 provides for). Paragraph 9(2) provides that the initial standing orders shall be determined by the Secretary of State and notified to the Presiding Officer or any deputy Presiding Officer. Paragraph 9(4) provides that the Transitional Assembly may amend or replace them, but cannot do so without cross-community support (as defined in paragraph 11). Paragraph 9(3) provides that the Secretary of State may add to or amend the standing orders but cannot do so in a manner inconsistent with any amendment made by the Transitional Assembly under paragraph 9(4). Paragraph 9(5) provides that the standing orders may

*These notes refer to the Northern Ireland (St Andrews Agreement)  
Act 2006 (c.53) which received Royal Assent on 22 November 2006*

include provisions similar to those of the Northern Ireland Assembly (under section 41 of the 1998 Act) or any direction made by the Secretary of State under paragraph 4 of Schedule 1 to the Northern Ireland Act 2006.

108. [Paragraph 9\(6\)](#) provides that the standing orders may include provision under paragraph 5 of Schedule 6 to the 1998 Act (as amended by section 17 of the Act) which deals with any vacancy in the Assembly.
109. [Paragraph 9\(7\)](#) also makes clear that any provision made by the standing orders for the purposes of nominating a First and deputy First Minister under paragraph 3, may include provision which is similar to that included in sections 16A to 16C of the 1998 Act (as inserted by section 8 of the Act).
110. [Paragraph 9\(8\)](#) provides that the standing orders may cater for any additional nominations that are made under paragraph 3 of Schedule 1 if a nomination made under paragraph 3 ceases to have effect.
111. [Paragraph 10\(1\)](#) provides that persons who are members of the Assembly established by the 2006 Act, immediately before Schedule 1 comes into force, will be deemed to have signed the roll of membership in the Transitional Assembly. Similarly, paragraph 10(2) provides that those same members will be deemed to have designated themselves Nationalist, Unionist or Other in the Transitional Assembly in line with their previous designation in the Assembly established by the Northern Ireland Act 2006.
112. [Paragraph 11](#) provides the definition of “cross-community support” referred to elsewhere in the Schedule.