NORTHERN IRELAND (ST ANDREWS AGREEMENT) ACT 2006

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Part 2: Amendments of the Northern Ireland Act 1998 Etc

NSMC and BIC

Section 12: North-South Ministerial Council and British-Irish Council

69.   Section 12 substitutes new sections 52A, 52B and 52C for section 52 of the 1998 Act, which deals with the North-South Ministerial Council and the British-Irish Council.

70.   New section 52A(1) places a duty on the First and deputy First Ministers to ensure that the Executive Committee and Assembly are made aware of the date and agenda of forthcoming meetings of the NSMC or BIC and of the name of the Ministers or junior Ministers who are to attend the meeting.

71.   New section 52A(2) provides that a Minister or junior Minister with responsibility for a matter included on the agenda for a meeting of either the NSMC or BIC shall be entitled to attend and participate in the meeting. He may also, under new section 52A(3), nominate another Minister or junior Minister to attend in his place. The responsible Minister or junior Minister is required (under new section 52A(4) and (6)) to notify the First and deputy First Ministers as to whether he intends to attend the meeting or to nominate someone to attend in his place, or neither. Where the First and deputy First Ministers haven't received notification under the section that the responsible Minister or junior Minister or a substitute will attend the meeting, new section 52A(5) places a duty on the First and deputy First Ministers to nominate someone to attend. The First and deputy First Ministers are also obliged, as necessary, to make nominations of other Ministers or junior Ministers to attend to ensure cross-community participation in the meeting (see section 52A(7)).

72.   New section 52A(8) and (9) provides that when a matter for discussion at either Council is one that ought to be considered by the Executive Committee (by virtue of section 20(3) or new section 20(4) of the 1998 Act), the First Minister and deputy First Minister may attend the meeting, in addition to the Minister or junior Minister with responsibility for the matter or a Minister or junior Minister nominated under new section 52A(3) or (5).

73.   New section 52B(1) and (2) requires Ministers and junior Ministers to participate in NSMC and BIC meetings they are attending. New section 52B(3) requires the responsible Minister or junior Minister to ensure that any other Minister or junior Minister attending an NSMC or BIC meeting in his place has access to whatever information is necessary to enable that person to participate fully in the meeting. However, if the responsible Minister or junior Minister has provided insufficient information to enable the nominated Minister or junior Minister's full participation,

new section 52B(4) makes provision for the First Minister and deputy First Minister acting jointly to request the information. The responsible Minister or junior Minister is obliged to comply with that request.

74.   New section 52B(5) authorises a person who has been nominated to attend a meeting on behalf of another Minister or junior Minister to enter into arrangements and agreements on his behalf. New section 52B(6) provides that any Minister or junior Minister attending an NSMC or BIC meeting must act in accordance with any relevant decisions of the Assembly or Executive Committee, taken within their existing competence.

75.   New section 52C makes supplementary provision for the operation of new sections 52A and 52B, including providing for the First and deputy First Ministers acting jointly to determine which Minister or junior Minister has responsibility for a matter in the event of there being a dispute. It also places a duty on Ministers and junior Ministers who attend meetings of either Council to make an oral report (unless standing orders authorise it to be made in writing) to both the Assembly and Executive Committee.