

NORTHERN IRELAND ACT 2009

EXPLANATORY NOTES

COMMENTARY ON SECTIONS

Schedule 1 – Northern Ireland department with policing and justice functions

Part 2

24. *Paragraph 3* inserts a new subsection (3A) into section 21A of the 1998 Act. This provides for a new ministerial model which the Northern Ireland Assembly can choose for a justice department. New subsection (3A) provides that the department may be in the charge of a minister who has been nominated by one or more members of the Assembly, and whose nomination is then approved by a resolution of the Assembly on a cross-community basis – that is, passed with the support of a majority of the members voting, a majority of designated unionists voting and a majority of designated nationalists voting.
25. *Paragraph 4* inserts a new Part 1A into Schedule 4A to the 1998 Act. New paragraph 3A of Schedule 4A provides for this Part of the Schedule to apply when the new model in section 21A(3A) is adopted.
26. New paragraph 3B of Schedule 4A sets out the chronology of ministerial appointments following an Assembly election. It provides for the post of justice minister to be filled *after* the appointment of the First Minister and deputy First Minister (under section 16A) and the appointment of other ministerial posts (under section 18).
27. New paragraph 3C disapplies section 18 of the 1998 Act in relation to the justice minister. The effect of this is that the justice minister is not selected under the d'Hondt formula and does not count towards the parties' entitlements to ministerial offices for the purposes of the d'Hondt calculation.
28. New paragraph 3D sets out the arrangements for the appointment and replacement of the justice minister. New paragraph 3D(1), (2) and (11) provides for the justice minister to cease to hold office in specified circumstances. New paragraph 3D(1) and (14) provides for a vacant post to be filled by applying the process set out in paragraph 3D(4) to (8).
29. New paragraph 3D(4) provides for the justice minister to be nominated by one or more members of the Assembly. New paragraph 3D(5) provides for the nomination to be approved by a resolution of the Assembly on a cross-community basis – that is, passed with the support of a majority of the members voting, a majority of designated unionists voting and a majority of designated nationalists voting.
30. New paragraph 3D(6) and (7) provides that once a member of the Northern Ireland Assembly has been nominated, the Assembly has the opportunity to vote on that candidate and, if elected, the individual has the opportunity to take up office before a further nomination may be made. This must take place within a period specified in standing orders. New paragraph 3D(10) prevents the justice minister taking up office until they have affirmed the pledge of office.

*These notes refer to the Northern Ireland Act 2009
(c.3) which received Royal Assent on 12 March 2009*

31. New paragraph 3D(11)(c) provides for the justice minister to cease to hold office following a resolution of the Assembly. New paragraph 3D(13) provides that a motion for such a resolution may be moved only if it is put forward by the First Minister and deputy First Minister acting jointly or if it is supported by at least 30 members of the Northern Ireland Assembly. New paragraph 3D(12) provides that the resolution must be approved on a cross-community basis – that is passed with the support of a majority of the members voting, a majority of designated unionists voting and a majority of designated nationalists voting.
32. New paragraph 3D(15) and (16) prevents the nomination of any member of a party if that party is excluded from holding ministerial office under section 30(2) or 30A(5) of the 1998 Act.
33. *Paragraph 4(5)* makes clear that paragraphs 2 and 3 of Schedule 12A to the 1998 Act apply in relation to any justice minister appointed under a departmental model provided for in section 21A of the 1998 Act. Under those paragraphs, a minister whose party is excluded by a direction made by the Secretary of State under section 30A(5) is able to resume, immediately, his previous ministerial office if Parliament does not approve the direction.