

**EXPLANATORY MEMORANDUM TO**  
**THE NORTHERN IRELAND (MINISTERIAL APPOINTMENT FUNCTIONS)**  
**(NO.2) REGULATIONS 2023**

**2023 No. 1061**

**1. Introduction**

- 1.1 This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of His Majesty.
- 1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

**2. Purpose of the instrument**

- 2.1 In the absence of devolved government in Northern Ireland, the Northern Ireland (Executive Formation etc) Act 2022 (the “2022 Act”), amongst other necessary measures, addresses the urgent need for key appointments to be made in Northern Ireland that would normally require Northern Ireland Ministers to be in office. Section 6 of the 2022 Act enables the relevant UK Minister to make certain, specified appointments, exercising the appointments functions already conferred on Northern Ireland Ministers in respect of a list of specified offices.
- 2.2 This instrument specifies further offices that are either currently vacant or due to become vacant in the coming months for the purposes of section 6, thereby enabling the Secretary of State and Lord Chancellor– as the relevant UK Minister - to exercise Northern Ireland Ministers’ appointment functions in relation to those offices.

**3. Matters of special interest to Parliament**

*Matters of special interest to the Joint Committee on Statutory Instruments*

- 3.1 This instrument will come into force on the day after the day on which it is made. The instrument needs to come into force at the earliest opportunity to enable appointment functions to be exercised so that public bodies are legally constituted and can continue to function. For example, there are existing vacancies in the Police Service for Northern Ireland above the rank of Chief Superintendent; and appointments within The Health and Safety Executive for Northern Ireland and the Council for the Curriculum, Examinations and Assessment are due to expire shortly will mean that these boards are no longer quorate. The instrument does not, however diminish the legal rights of persons affected, impose new duties on such persons or require them to adopt different patterns of behaviour. On the contrary it will enable vital appointment functions to be exercised at the earliest opportunity.
- 3.2 This instrument enables public appointments to be made to specified Northern Ireland public bodies; it has no application elsewhere in the UK.

**4. Extent and Territorial Application**

- 4.1 The territorial extent of this instrument is England and Wales, Scotland and Northern Ireland.

4.2 The territorial application of this instrument is Northern Ireland.

## **5. European Convention on Human Rights**

5.1 The Minister of State for Northern Ireland, Steve Baker MP has made the following statement regarding Human Rights:

“In my view the provisions of the Northern Ireland (Ministerial Appointment Functions) (No. 2) Regulations 2023 are compatible with the Convention rights.”

## **6. Legislative Context**

6.1 Section 6 of the 2022 Act enables a relevant Minister of the Crown to exercise the appointment functions of a Northern Ireland Minister in respect of specified offices. The 2022 Act as enacted included two specified offices (Member of the Northern Ireland Judicial Appointments Commission and Commissioner for Children and Young People for Northern Ireland).

6.2 The Northern Ireland (Ministerial Appointment Functions) Regulations 2023 ( the “2023 Regulations”) came into effect on 11 July 2023. This secondary legislation amended the table in Section 6 of the 2022 Act, adding a further twelve specified offices. The offices added by the 2023 Regulations were: Chair or Member of the Agricultural Wages Board for Northern Ireland; Chair or Member of the Livestock and Meat Commission for Northern Ireland; Chair or Member of the Northern Ireland Local Government Officers’ Superannuation Committee; Chair or Member of the Northern Ireland Fishery Harbour Authority; Chair or Trustee of the Board of Trustees of the National Museums and Galleries of Northern Ireland; Chair, Deputy Chair or Member of the General Consumer Council for Northern Ireland; Chair or Member of the Historic Buildings Council; Chair or Member of the Labour Relations Agency; Chair, Deputy Chair or Member of the Northern Ireland Tourist Board; Member of the Northern Ireland Policing Board; Member, Chair or Deputy Chair of the Probation Board for Northern Ireland; and Commissioner for Public Appointments for Northern Ireland

6.3 This instrument adds nine further offices in respect of which the appointment functions of a Northern Ireland Minister may be exercised by the relevant UK Minister. Further details of those offices are provided below in paragraph 7.

## **7. Policy background**

### *What is being done and why?*

7.1 This instrument applies to appointment functions relating to a number of devolved public offices. The UK Government remains committed to restoring devolution in Northern Ireland. However, as mentioned above, in the absence of devolved government in Northern Ireland it has been necessary for the UK Government to take strategic legislative interventions to ensure good governance is maintained in the interim.

7.2 The 2022 Act, amongst other key measures, addressed the need for urgent critical appointments to be made to the bodies listed above in paragraph 6.1 and gave the Secretary of State the power to add further offices to the list specified in section 6 of the 2022 Act. Alongside the powers conferred by the 2022 Act, the Secretary of State for Northern Ireland also gave a commitment to make further critical appointments that may arise within Northern Ireland in the absence of an Executive.

7.3 The Northern Ireland Office has engaged with the Northern Ireland Civil Service to assess outstanding appointments and identify those which are critical. This included a thorough assessment of what the impact would be on public services should appointments not be made to these offices. This instrument includes only those offices that have been deemed critical which are: King’s Counsel; Member, Chair or Deputy Chair of the Council for Nature Conservation and the Countryside; Member of the Drainage Council for Northern Ireland; Member, Chair or Deputy Chair of the Health and Safety Executive for Northern Ireland; Member, Chair or Chief-Executive of the Northern Ireland Council for the Curriculum, Examinations and Assessment; Member, Chair or Vice-Chair of the Northern Ireland Housing Executive; Commissioner for Older People for Northern Ireland; Member of the Police Service of Northern Ireland above the rank of Chief Superintendent; and Member, Chair or Vice-Chair of the Sports Council for Northern Ireland.

## **8. European Union Withdrawal and Future Relationship**

8.1 This instrument does not relate to withdrawal from the European Union.

## **9. Consolidation**

9.1 There are currently no plans to consolidate the relevant legislation.

## **10. Consultation outcome**

10.1 Since the passing of the 2022 Act and the 2023 Regulations the Northern Ireland Office has engaged with the Northern Ireland Civil Service to identify the further critical appointments that are included in this instrument. In the absence of a devolved administration, there has been no direct consultation with the Northern Ireland political parties but as these appointments are needed to ensure that public bodies can continue to function we would not expect that they would raise any concerns with the bodies included in this instrument.

## **11. Guidance**

11.1 No further guidance is being published alongside this instrument.

## **12. Impact**

12.1 There is no, or no significant, impact on business, charities or voluntary bodies.

12.2 There is no, or no significant, impact on the public sector.

12.3 A full Impact Assessment has not been prepared for this instrument because no impact on business is foreseen as the legislation only relates to appointments made to public bodies.

## **13. Regulating small business**

13.1 The legislation does not apply to activities that are undertaken by small businesses.

## **14. Monitoring & review**

14.1 The relevant UK Minister may only exercise appointment functions of Northern Ireland Ministers in relation to specified offices during the period while there is no Northern Ireland Executive. That period will end on the next occasion that all Ministerial offices in Northern Ireland are filled. The Northern Ireland Office will

continue to engage with the Northern Ireland Civil Service to identify further critical appointments that may arise until such a time that a Northern Ireland Executive is in place.

**15. Contact**

- 15.1 Richard Steven at the Northern Ireland Office. Telephone: 07810438366 or email: Richard.steven@nio.gov.uk can be contacted with any queries regarding the instrument.
- 15.2 Clare Sloan, Deputy Director for Corporate Operations Group, at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.
- 15.3 Steve Baker, Minister of State at the Northern Ireland Office can confirm that this Explanatory Memorandum meets the required standard.