

Northern Ireland Bill

EXPLANATORY NOTES

Explanatory Notes to the Bill, prepared by the Northern Ireland Office, are published separately as Bill 136—EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Secretary Marjorie Mowlam has made the following statement under section 19(1)(a) of the Human Rights Act 1998:

In my view the provisions of the Northern Ireland Bill are compatible with the Convention rights.

Northern Ireland Bill

ARRANGEMENT OF CLAUSES

Clause

1. Suspension of devolved government etc.
2. The suspension period.
3. Meetings of Assembly during suspension period.
4. Restoration of devolved government.
5. Implementation bodies.
6. Short title, construction and commencement.

SCHEDULES:

- Schedule 1 — Provisions applicable during suspension period.
- Schedule 2 — Text of the Joint Statement.

A

B I L L

TO

Make provision for the suspension in certain circumstances of devolved government in Northern Ireland and the exercise of certain functions conferred by or under Part V of the Northern Ireland Act 1998; and for connected purposes. A.D. 1999.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

- 5 1.—(1) This section applies where, at any time after Parts II and III of the Northern Ireland Act 1998 (“the 1998 Act”) come into force—
- (a) the Decommissioning Commission reports to the Secretary of State that there has been—
- 10 (i) a failure to meet a commitment relating to decommissioning; or
- (ii) a failure to take, in accordance with the Joint Statement, any step referred to in paragraph 5 of that Statement which is specified by the Commission; or
- 15 (b) the Secretary of State has reason to believe, after such consultation as he considers necessary, that there has been a failure to meet a commitment relating to devolution.
- (2) The Secretary of State shall make a suspension order, that is to say, an order providing that during the suspension period—
- 20 (a) no Act shall be passed by the Assembly and, except as provided by section 3, neither the Assembly nor any committee of the Assembly shall hold any meetings or conduct any business;
- (b) no person shall hold office or be elected, nominated or appointed as a Minister or junior Minister, or as a chairman or deputy chairman of a statutory committee;
- 25 (c) none of the following shall be exercisable—
- (i) the functions conferred by section 52 or 53 of the 1998 Act (North-South Ministerial Council and British-Irish Council); and
- Suspension of devolved government etc.
1998 c.47.

(ii) the functions conferred by section 54 of that Act (British-Irish Intergovernmental Conference); and

(d) no functions shall be conferred under section 55(2)(b) of that Act (implementation bodies).

(3) The provisions of Schedule 1 to this Act shall have effect with respect to the exercise of legislative, executive and other functions in relation to Northern Ireland during a suspension period. 5

(4) As soon as practicable after making a suspension order, the Secretary of State shall take steps to initiate a review under the Validation, Implementation and Review section of the Belfast Agreement. 10

(5) A suspension order—

(a) may make such consequential, incidental and supplementary modifications of enactments as appear to the Secretary of State to be necessary or expedient; and

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament. 15

(6) In this section—

“commitment” means a commitment arising under the Belfast Agreement or the Joint Statement; 20

“the Decommissioning Commission” means the Independent International Commission on Decommissioning established by agreement between Her Majesty’s Government in the United Kingdom and the Government of Ireland;

“the Joint Statement” means the joint statement issued by Her Majesty’s Government in the United Kingdom and the Government of Ireland on 2nd July 1999, the text of which is set out in Schedule 2 to this Act. 25

The suspension period.

2.—(1) The suspension period, in relation to a suspension order, shall be the period beginning with the making of the order and ending with such day as the Secretary of State may by order appoint. 30

(2) In deciding whether to make an order under subsection (1), the Secretary of State shall take into account any vote under section 3(3) which is passed with cross-community support.

(3) An order under subsection (1) may make such consequential, incidental and supplementary modifications of enactments as appear to the Secretary of State to be necessary or expedient. 35

(4) The power to make an order under subsection (1) shall be exercisable by statutory instrument; and no order shall be made under that subsection unless either— 40

(a) a draft of the order has been approved by resolution of each House of Parliament; or

(b) the order declares that it appears to the Secretary of State to be expedient for the order to be made without a draft having been so approved. 45

(5) An order under subsection (1), other than an order of which a draft has been approved by resolution of each House of Parliament—

- (a) shall be laid before Parliament after being made; and
- 5 (b) if at the end of the period of forty days after the date on which it is made the order has not been approved by resolution of each House, shall then cease to have effect (but without prejudice to anything previously done under the order or to the making of a new order).

3.—(1) During a suspension period the Secretary of State shall call two meetings of the Assembly as required by subsections (2) and (3).

Meetings of
Assembly during
suspension period.

10 (2) The first meeting shall be held within 7 days of the making of the suspension order; and at that meeting the Assembly shall debate, but not vote on—

- (a) the situation which led to the making of the suspension order; and
- 15 (b) the matters which fall to be reviewed under the Validation, Implementation and Review section of the Belfast Agreement.

(3) The second meeting shall be held within 7 days of the conclusion of the review under that section of that Agreement; and at that meeting the Assembly shall debate, and vote on, any action proposed to be taken in consequence of the review.

20 (4) For the purposes of this section the Assembly's standing orders shall have effect subject to such modifications as the Secretary of State may determine.

4.—(1) This section applies where a suspension period is brought to an end under section 2(1).

Restoration of
devolved
government.

25 (2) If each of the persons who, immediately before the making of the suspension order, held office as First Minister and deputy First Minister remains eligible to hold his office, those persons shall resume their offices.

30 (3) In any other case, section 16 of the 1998 Act shall apply as if the reference to the Assembly's first meeting included a reference to the ending of the suspension period.

(4) If any persons who, immediately before the making of the suspension order, held office as—

- (a) Northern Ireland Ministers;
 - (b) junior Ministers; or
 - 35 (c) chairmen or deputy chairmen of statutory committees,
- remain eligible to hold their offices, they shall resume their offices.

(5) If, after the application of subsection (4), there are any vacancies in any such offices as are mentioned in that subsection, those vacancies shall be filled—

- 40 (a) in the case of Northern Ireland Ministers, under section 18(10) of the 1998 Act;
- (b) in the case of junior Ministers, under the provision for the filling of vacancies made by virtue of section 19(3)(a) of that Act; and

(c) in the case of chairmen or deputy chairmen of statutory committees, under standing orders made by virtue of section 29(8) of that Act.

(6) If any person who, immediately before the making of the suspension order, held office as a Northern Ireland Minister is ineligible to hold his office by reason of a resolution of the Assembly under section 30(2) of the 1998 Act— 5

(a) subsections (4)(a) and (5)(a) shall not apply; and

(b) the offices of all Northern Ireland Ministers shall be filled by applying subsections (2) to (6) of section 18 of the 1998 Act.

(7) In this section "statutory committee" shall be construed in accordance with section 29 of the 1998 Act. 10

**Implementation
bodies.**

5.—(1) If, during a suspension period, arrangements made under an agreement between Her Majesty's Government in the United Kingdom and the Government of Ireland require any functions of an implementation body, so far as they relate to Northern Ireland, to be transferred to a Northern Ireland department, the Secretary of State shall by order transfer those functions to such a department. 15

(2) If, after a suspension period has come to an end, arrangements made under such an agreement require any functions of a Northern Ireland department to be transferred to an implementation body, the Secretary of State shall by order transfer those functions to such a body. 20

(3) An order under this section—

(a) may make such consequential, supplementary and transitional modifications of enactments as appear to the Secretary of State to be necessary or expedient; and 25

(b) shall be made by statutory instrument which shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(4) In this section "implementation body" means any body which is or has at any time been an implementation body within the meaning of section 55 of the 1998 Act. 30

**Short title,
construction and
commencement.
1998 c.47.**

6.—(1) This Act may be cited as the Northern Ireland Act 1999.

(2) In this Act—

"the 1998 Act" means the Northern Ireland Act 1998;

"enactment" includes any provision of an Act (including this Act), any provision of or of any instrument made under Northern Ireland legislation and any provision of subordinate legislation; 35

"suspension order" shall be construed in accordance with section 1(2);

"suspension period", in relation to a suspension order, shall be construed in accordance with section 2(1); 40

and, unless the contrary intention appears, expressions which are also used in the 1998 Act have the same meanings as in that Act.

(3) In reckoning the period mentioned in section 2(5) or paragraph 1(4) of Schedule 1 to this Act, no account shall be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days. 45

(4) This Act shall come into force on the day after that on which Parts II and III of the 1998 Act come into force.

SCHEDULES

section 1(3).

SCHEDULE 1

PROVISIONS APPLICABLE DURING SUSPENSION PERIOD

Legislative functions

1.—(1) During a suspension period or, in the case of a suspension period which exceeds six months, during the first six months of that period, Her Majesty may by Order in Council make provision for any matter for which the 1998 Act authorises or requires provision to be made by Act of the Assembly. 5

(2) No recommendation shall be made to Her Majesty to make any Order in Council under this paragraph containing a provision which would be outside the legislative competence of the Assembly. 10

(3) No recommendation shall be made to Her Majesty to make an Order in Council under this paragraph unless either—

- (a) a draft of the Order has been approved by resolution of each House of Parliament; or 15
- (b) the Order declares that it has been made to appear to Her Majesty that by reason of urgency the Order requires to be made without a draft having been so approved.

(4) Any Order in Council under this paragraph, other than an Order of which a draft has been approved by resolution of each House of Parliament— 20

- (a) shall be laid before Parliament after being made; and
- (b) if at the end of the period of forty days after the date on which it is made the Order has not been approved by resolution of each House, shall then cease to have effect (but without prejudice to anything previously done under the Order or to the making of a new Order). 25

(5) References to Acts of the Assembly in any enactment or instrument (whether passed or made before or after the passing of this Act) shall, so far as the context permits, be deemed to include references to Orders in Council under this paragraph.

1946 c.36.

(6) Orders in Council under this paragraph may be omitted from any annual edition of statutory instruments required to be prepared under regulations made by virtue of section 8 of the Statutory Instruments Act 1946. 30

(7) The Secretary of State may by order direct, in relation to any suspension period, that sub-paragraph (1) shall have effect as if the number of months mentioned in that sub-paragraph (whether as enacted or as previously modified under this sub-paragraph) were increased by such number of months not exceeding six as may be specified in the order. 35

(8) The power to make an order under sub-paragraph (7) shall be exercisable by statutory instrument; and no order shall be made under that sub-paragraph unless a draft of it has been approved by a resolution of each House of Parliament.

(9) In this paragraph "instruments" includes charters, contracts and other documents. 40

Executive functions

2.—(1) During a suspension period—

- (a) any functions of the First Minister and the deputy First Minister may be discharged by the Secretary of State; and 45
- (b) any functions of a Northern Ireland Minister may be discharged by the Northern Ireland department of which he was in charge.

(2) During a suspension period any functions of a Northern Ireland department, including functions discharged by virtue of sub-paragraph (1), shall be discharged by the department subject to the direction and control of the Secretary of State.

(3) Anything required or authorised by or under any enactment or instrument to be done to or in relation to a Minister in connection with any functions exercisable by virtue of this paragraph by a substituted authority (whether the Secretary of State or a Northern Ireland department) shall, during a suspension period, be done instead to or in relation to that authority.

(4) Any enactment or instrument shall have effect, so far as may be necessary for or in consequence of the exercise of any functions by a substituted authority by virtue of this paragraph, as if references to a Minister were references to that authority.

(5) This paragraph shall not invalidate anything done before the beginning of a suspension period; and—

(a) anything which, at the beginning of that period, is in process of being done by or in relation to a Minister may be continued by or in relation to the substituted authority;

(b) any order, regulation, rule, direction, authority, appointment, authentication, approval or other instrument or act effective at the beginning of that period as that of a Minister shall continue to have effect as that of the substituted authority.

(6) The foregoing provisions of this paragraph apply to functions conferred by any enactment or instrument during as well as before a suspension period except in so far as provision to the contrary is made by that enactment or instrument.

Subordinate instruments etc

3.—(1) Where under any enactment or instrument it is a condition for the taking of any step (other than the annulment of any instrument) or the coming of anything into operation that a resolution or motion has been passed or an address presented by the Assembly, then, during a suspension period, that step may be taken or that thing shall come into operation without any such resolution, motion or address.

(2) Any statutory instrument made or coming into operation by virtue of sub-paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

(3) Any statutory rules made or coming into operation by virtue of sub-paragraph (1) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument and section 5 of the Statutory Instruments Act 1946 shall apply accordingly.

1946 c.36.

(4) So much of any enactment or instrument as makes the taking of any step or the coming of anything into operation conditional on the laying of any instrument or document before the Assembly, or on any lapse of time after an instrument or document is so laid, shall not apply during a suspension period.

(5) So much of any enactment or instrument as makes it a condition for the continuing of anything in operation that a resolution or motion has been passed or an address presented by the Assembly shall not apply in relation to anything done during a suspension period or in relation to anything done previously that would, apart from this sub-paragraph, cease to have effect during that period.

(6) No instrument made during a suspension period shall be liable to annulment or capable of being revoked in pursuance of a resolution, motion or address of the Assembly; and no draft of any such instrument shall be laid before the Assembly nor shall any proceedings be taken in the Assembly with respect to a draft of any such instrument.

(7) Regulations made during a suspension period under Article 7 of the Statutory Rules (Northern Ireland) Order 1979 shall not require the concurrence of the Presiding Officer of the Assembly.

S.I. 1979/1573
(N.I.12).

SCH. 1
S.I. 1979/1573
(N.I.12).

(8) In this paragraph "statutory rules" has the same meaning as it has for the purposes of the Statutory Rules (Northern Ireland) Order 1979.

Assembly Commission

4.—(1) During a suspension period no meetings shall be held by the Northern Ireland Assembly Commission and the functions of that Commission— 5

(a) shall be exercisable by the Secretary of State; and

(b) in the case of functions under section 40(6) of the 1998 Act (proceedings by or against the Assembly), shall be so exercisable in the name of the Commission.

(2) Any expenditure incurred by the Secretary of State in consequence of this paragraph shall be paid out of money provided by Parliament. 10

Members' remuneration and pensions

5.—(1) During a suspension period the functions of the Assembly under sections 47 and 48 of the 1998 Act (remuneration and pensions) shall be exercisable by the Secretary of State instead of the Assembly. 15

(2) Any expenditure incurred by the Secretary of State in consequence of this paragraph shall be paid out of money provided by Parliament.

Implementation bodies

S.I. 1999/859.

6.—(1) In the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 references to the Agreement, or to any provision of the Agreement, shall be construed at any time during a suspension period as references to the Agreement, or to that provision, as it has effect at that time when read with any relevant agreements. 20

(2) In this paragraph—

"the Agreement" means the Agreement between Her Majesty's Government in the United Kingdom and the Government of Ireland which established implementation bodies and was done at Dublin on 8th March 1999; 25

"relevant agreement" means an agreement between the same parties which is designated by the Secretary of State as a relevant agreement for the purposes of this paragraph. 30

Audit

7.—(1) During a suspension period the power of Her Majesty under section 65(1) of the 1998 Act (appointment of Comptroller and Auditor General for Northern Ireland) shall be exercisable on an address presented by the House of Commons. 35

(2) No motion shall be made for such an address except by the Secretary of State acting with the agreement of the Committee of Public Accounts.

S.I. 1987/460
(N.I.5).

(3) During a suspension period Article 4(1) of the Audit (Northern Ireland) Order 1987 shall have effect as if for the words from "a resolution of the Assembly" to the end there were substituted the words "an order made by the Secretary of State: and an order under this paragraph— 40

(a) shall take effect from such date (whether before or after the making of the order) as may be specified in the order; and

1946 c.36.

(b) shall be subject to annulment in pursuance of a resolution of either House of Parliament in like manner as a statutory instrument, and section 5 of the Statutory Instruments Act 1946 shall apply accordingly." 45

Accounts, reports and other documents

SCH. 1

8.—(1) The accounts and reports to which sub-paragraph (2) applies shall be laid before the House of Commons instead of the Assembly; and the accounts, reports and other documents to which sub-paragraph (3) applies shall be laid before each House of Parliament instead of the Assembly.

(2) This sub-paragraph applies to such accounts and reports as are required by section 11, 19, 21 or 22 of the Exchequer and Audit Act (Northern Ireland) 1921, or by Article 8 of the Financial Provisions (Northern Ireland) Order 1993, to be laid before (or presented or made to) the Assembly during a suspension period.

1921 c.2 (N.I.).
S.I. 1993/1252
(N.I.5).

(3) This sub-paragraph applies to such accounts, reports and other documents as—

(a) are required to be laid before (or presented or made to) the Assembly during a suspension period; and

(b) are prescribed by order of the Secretary of State made by statutory instrument.

(4) A statutory instrument containing an order under sub-paragraph (3) shall be subject to annulment in pursuance of a resolution of either House of Parliament.

Ombudsman and Commissioner for Complaints

9.—(1) During a suspension period any report required to be laid before the Assembly under—

(a) Article 17(1) or (2) of the Ombudsman (Northern Ireland) Order 1996; or

(b) Article 19 of the Commissioner for Complaints (Northern Ireland) Order 1996,

S.I. 1996/1298
(N.I.8).
S.I. 1996/1297
(N.I.7).

shall be laid instead before each House of Parliament; and the reference in Article 18(2)(a) of the first-mentioned Order to a report to the Assembly shall accordingly include a reference to a report to either House of Parliament.

(2) During a suspension period any complaint under the Ombudsman (Northern Ireland) Order 1996 may be made to, and referred to the Commissioner by, a member of the House of Commons; and references to a member of the Assembly in Articles 9, 16 and 18 of that Order shall be construed accordingly.

SCHEDULE 2

Section 1(6).

TEXT OF THE JOINT STATEMENT

THE WAY FORWARD

A JOINT STATEMENT BY THE BRITISH AND IRISH GOVERNMENTS

After five days of discussion, the British and Irish Governments have put to all the parties a way forward to establish an inclusive executive, and to decommission arms.

These discussions have been difficult. But as they conclude, the peace process is very much alive, and on track. The Good Friday Agreement presents the best chance of peace and prosperity in decades. It is clear from our discussions that nobody wants to throw that opportunity away.

We believe that both unionist and nationalist opinion will see that our approach meets their concerns, and will support it accordingly.

The way forward is as follows:

1. All parties reaffirm the three principles agreed on 25 June—

(i) an inclusive Executive exercising devolved powers;

SCH. 2

- (ii) decommissioning of all paramilitary arms by May 2000; and
- (iii) decommissioning to be carried out in a manner determined by the International Commission on Decommissioning.

2. The D'Hondt procedure to nominate Ministers to be run on 15 July.

3. The Devolution Order to be laid before the British Parliament on 16 July to take effect on 18 July. Within the period specified by the de Chastelain Commission, the Commission will confirm a start to the process of decommissioning, that start to be defined as in their report of 2 July. 5

4. As described in their report today, the Commission will have urgent discussions with the groups' points of contact. The Commission will specify that actual decommissioning is to start within a specified time. They will report progress in September and December 1999 and in May 2000. 10

5. A "failsafe" clause: the Governments undertake that, in accordance with the review provisions of the Agreement, if commitments under the Agreement are not met, either in relation to decommissioning or to devolution, they will automatically, and with immediate effect, suspend the operation of the institutions set up by the Agreement. In relation to decommissioning, this action will be taken on receipt of a report at any time that the commitments now being entered into or steps which are subsequently laid down by the Commission, are not fulfilled, in accordance with the Good Friday Agreement. The British Government will legislate to this effect. 15 20

All parties have fought very hard to ensure their basic concerns have been met. This means that we are now closer than ever to fulfilling the promise of the Good Friday Agreement:

- (i) a government for Northern Ireland in which the two traditions work together in a devolved administration; 25
- (ii) new North-South and British-Irish institutions;
- (iii) the decommissioning of paramilitary arms;
- (iv) constitutional change;
- (v) equality, justice, human rights, and the normalisation of Northern Ireland society. 30

All sides have legislative safeguards to ensure that commitments entered into are met.

This is an historic opportunity. Now is the time to seize it.

2 July 1999

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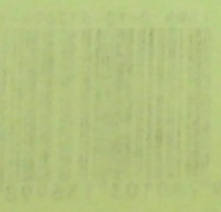
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Northern Ireland

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BILL

To make provision for the suspension in certain circumstances of devolved government in Northern Ireland and the exercise of certain functions conferred by or under Part V of the Northern Ireland Act 1998; and for connected purposes.

*Presented by Secretary Marjorie Mowlam
supported by
the Prime Minister, Mr Secretary Prescott,
Mr Chancellor of the Exchequer,
Mr Secretary Cook, Mr Secretary Straw,
Mr Secretary Robertson,
Mr Secretary Michael, Mr Secretary Reid
and Mr Paul Murphy.*

*Ordered, by The House of Commons,
to be Printed, 12th July 1999.*

LONDON: THE STATIONERY OFFICE
Printed in the United Kingdom by The Stationery Office Limited

£2.50

[Bill 136]

(44723)

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ISBN 0-10-313699-1



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