

Government of Ireland Act
1920

CHAPTER 67

AN ACT to provide for the better Government of Ireland^[1].
[23rd December 1920]

ESTABLISHMENT OF PARLIAMENT FOR NORTHERN IRELAND

1.—(1) On and after the appointed day^[2] there shall be established for Northern Ireland a Parliament to be called the Parliament of Northern Ireland consisting of His Majesty, the Senate of Northern Ireland, and the House of Commons of Northern Ireland. Establishment of Parliament of Northern Ireland.

(2)^[3] For the purposes of this Act, Northern Ireland shall consist of the parliamentary counties of Antrim, Armagh, Down, Fermanagh, Londonderry and Tyrone, and the parliamentary boroughs of Belfast and Londonderry.

[S. 2 rep. by 15 & 16 Geo. 5. c. 77. s. 1(2). S. 3 rep. by S.L.R. 1927.]

LEGISLATIVE POWERS

4.^[4]—(1) Subject to the provisions of this Act, . . . the Parliament of Northern Ireland shall . . . have power to make Legislative powers of

- ^[1] Applies to N.I. only, 13 Geo. 5. sess. 2. c. 2. s. 1.
Refs. to Southern Ireland are included only when required to explain the context.]
^[2] 3.5.1921, S.R. & O. 1921, No. 533 (Rev. vol. XVI. p. 933).]
^[3] The extent of N.I., as fixed by this sub. s., was confirmed by the Agreement 3.12.1925, see art. 1. of sch. to 15 & 16 Geo. 5. c. 77.]
^[4] Expl., 18 & 19 Geo. 5. c. 24. s. 2; 10 & 11 Eliz. 2. c. 30. s. 2(3).
Saved, 11 & 12 Geo. 6. c. 66. s. 21(1); 4 & 5 Eliz. 2. c. 68. s. 37; 7 & 8 Eliz. 2. c. 19 s. 8(1); 1964. c. 58 (U.K.) s. 12(2); 1964. c. 60 (U.K.) s. 20(5); 1968. c. 66. (U.K.) s. 15.
Ext.: Water, irrigation, electricity, transport schemes, 10 & 11 Geo. 6. c. 37. ss. 1(2), 6.
Excl.: Colonial and Other Territories (Divorce), 14 Geo. 6. c. 20. s. 5.
Medical, 4 & 5 Eliz. 2. c. 76. s. 56(2).
Therapeutic Substances, 4 & 5 Eliz. 2. c. 25. s. 17(3).
Veterinary Surgeons, 11 & 12 Geo. 6. c. 52. s. 30.
Mod.: Administration of Justice, 1965. c. 2 (U.K.) s. 31.
Adoption, 1968. c. 53 (U.K.) s. 13.
Agricultural Marketing, 6 & 7 Eliz. 2. c. 47. s. 53(2).
Agriculture and Horticulture, 1964. c. 28 (U.K.) s. 26(3).
Agriculture (Miscellaneous Provisions), 2 & 3 Eliz. 2. c. 39. ss. 10(12), 11(4); 1968. c. 34 (U.K.) s. 54(4).
Aliens' Employment, 4 & 5 Eliz. 2. c. 18. s. 2(3).
Appeals, 10 & 11 Eliz. 2. c. 30. ss. 1(8), 2(3).
Assurance Companies, 9 & 10 Geo. 6. c. 28. s. 12.
Atomic Energy, 9 & 10 Geo. 6. c. 80. s. 20(1).
Backing of Warrants (Republic of Ireland), 1965. c. 45 (U.K.) s. 11.
Borrowing (Control and Guarantees), 9 & 10 Geo. 6. c. 58. s. 6(2).
Building Societies, 8 & 9 Eliz. 2. c. 64. s. 75.

[Continued on pages 8 and 9]

se relating to the qualifica-
all the laws respecting the
and execution of writs, the
ie taking of the poll, the
votes, the questioning of
ctices, the oath, qualifica-
nbers, and the vacating of

includes export duties as

ty" includes any tax on
l any other tax which may
ccess profits duty:

cludes any telegraphic and
e, transmission and pay-
ers postal orders, but
spect to old age pensions
ertaken by the Postmaster-
a similar character under-
d by Order in Council:

ncludes any land lines used
ecting a submarine cable

. . . Northern Ireland"[1]
, by whatever name called,
with the administration of
id:

e" includes recorder:
remuneration, allowances,

superannuation allowance
an officer or constable of
. . . includes a pension or
or children of an officer

any place, situation, or
on "officer" shall be con-

on to the Royal Irish Con-
tor-General, the Deputy-
ant-Inspector-General, the
ommandant of the Depot,
t of Functions Notification, Belfast

the Town Inspector at Belfast, a county inspector, a
surgeon, a storekeeper and barrack-master, the veterinary
surgeon, and a district inspector:

The expression "constable" in relation to the Royal Irish
Constabulary includes the head-constable-major, a head-
constable, sergeant, acting sergeant and constable;:

The expression "Royal Irish Constabulary" includes the
reserve force of that body.

75. Notwithstanding the establishment of the Parliaments of
Southern and Northern Ireland, . . . [1] or anything contained in
this Act, [the supreme authority of the Parliament of the United
Kingdom shall remain unaffected and undiminished over all
persons, matters and things in Ireland and every part thereof.]

Saving for
supreme
authority of
the Parlia-
ment of the
United
Kingdom.

Key words in brackets - earlier part was amended in 1973

76.—(1) This Act may be cited as the Government of Ireland
Act 1920.

Short title.

[Sub. s. (2) rep. by S.L.R. 1927.]

SCHEDULES

[First Schedule rep. by 15 & 16 Geo. 5. c. 77. s. 1(2). Second
Schedule rep. by S.L.R. 1927.]

THIRD SCHEDULE

Section 13.

COMPOSITION OF SENATE OF NORTHERN IRELAND

PART I

OFFICES ENTITLING HOLDERS TO BE SENATORS

The Lord Mayor of Belfast;
The Mayor of Londonderry.

PART II

ELECTED SENATORS

Twenty-four senators to be elected by the members of the House of
Commons of Northern Ireland.

[1 Rep., S.L.R. 1927.]

ELIZABETH II



Northern Ireland Constitution Act 1973

1973 CHAPTER 36

An Act to make new provision for the government of
Northern Ireland. [18th July 1973]

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:—

PART I

PRELIMINARY

Status of Northern Ireland

1. It is hereby declared that Northern Ireland remains part of Her Majesty's dominions and of the United Kingdom, and it is hereby affirmed that in no event will Northern Ireland or any part of it cease to be part of Her Majesty's dominions and of the United Kingdom without the consent of the majority of the people of Northern Ireland voting in a poll held for the purposes of this section in accordance with Schedule 1 to this Act.

Devolution orders

2.—(1) If it appears to the Secretary of State—

- (a) that the Northern Ireland Assembly (in this Act referred to as "the Assembly") has made satisfactory provision by its standing orders for the purposes mentioned in section 25(2) to (5) below; and
- (b) that a Northern Ireland Executive can be formed which, having regard to the support it commands in the Assembly and to the electorate on which that support

Initial
devolution of
legislative and
executive
responsibility.

SCHEDULES

Section 1.

SCHEDULE 1

POLLS FOR PURPOSES OF SECTION 1

1. The Secretary of State may by order direct the holding of a poll for the purposes of section 1 of this Act on a date specified in the order, but the date so specified shall not be earlier than 9th March 1983 or earlier than ten years after the date of a previous poll under this Schedule.

2. Any order under this Schedule directing the holding of a poll shall make provision as to the persons entitled to vote on the poll, the question or questions to be asked of the persons so voting and the conduct of the poll, and may make such other provision in connection with the poll as appears to the Secretary of State to be expedient, including provision applying, with or without modifications, any enactment or statutory provision with respect to Parliamentary elections or elections to the Assembly.

3. The power to make orders under this Schedule includes power to vary or revoke a previous order and shall be exercisable by statutory instrument but no such order shall be made unless a draft of the order has been approved by resolution of each House of Parliament.

Section 2.

SCHEDULE 2

EXCEPTED MATTERS

1. The Crown, including the succession to the Crown and a regency, but not—

- (a) functions of Northern Ireland executive authorities or functions in relation to Northern Ireland of any Minister of the Crown;
- (b) property belonging to Her Majesty in right of the Crown or belonging to a government department or held in trust for Her Majesty for the purposes of a government department;
- (c) foreshore or the sea bed or subsoil or their natural resources so far as vested in Her Majesty in right of the Crown.

2. The Parliament of the United Kingdom; parliamentary elections, including the franchise; disqualifications for membership of that Parliament.

3. International relations, including treaties, the making of peace or war and neutrality, and matters connected therewith but not—

- (a) the surrender of fugitive offenders between Northern Ireland and the Republic of Ireland;
- (b) the exercise of legislative powers so far as required for giving effect to any agreement or arrangement made under section 12 of this Act;

The Anglo-Irish Agreement

documents leading up to the Sunningdale Conference and communique in 1973 than in the period from 1981 to 1985. However, no specific provisions were made in the Northern Ireland Constitution Act 1973 or in the Anglo-Irish Agreement to give effect to this right, presumably on the grounds that it was not thought to be necessary. The argument that formal constitutional provisions in respect of aspirations might be desirable is discussed below in the commentary on Article 1.

"reaffirming their commitment" The previous commitments by the two Governments were somewhat less specific: in the communique of the summit meeting between Mrs Thatcher and Dr Fitzgerald on November 18-19, 1984 it was agreed that "the identities of both the majority and the minority communities in Northern Ireland should be recognised and respected and reflected in the structures and processes of Northern Ireland in ways acceptable to both communities," and that "the process of government in Northern Ireland should be such as to provide the people of both communities with the confidence that their rights will be safeguarded"; see also para. 4.15 of the *New Ireland Forum Report*.

"a society in Northern Ireland in which all may live in peace, free from discrimination and intolerance" This formulation is much more general and positive than previous declarations on this matter by either Government. The participants in the New Ireland Forum committed themselves to "new structures in which no tradition will be allowed to dominate the other, in which there will be provision for formal and effective guarantees for the protection of individual human rights and of the communal and cultural rights of both nationalists and unionists;" they also agreed that "civil and religious liberties and rights must be guaranteed and there can be no discrimination or preference in laws or administrative practices, on grounds of religious belief or persuasion" (paras. 5.2(5) and 5.2(6)). But these protections were envisaged for a new Ireland rather than for Northern Ireland alone. The British Government had committed itself to the prevention of religious and political discrimination by law or by public administration both under the Government of Ireland Act 1920 (s.5) and under the Northern Ireland Constitution Act 1973 (ss.17 to 19). But protection from discrimination in the private sector is more limited and there are no provisions on intolerance. The specific provisions of the Agreement on these matters are included in Article 5(a).

"with the opportunity for both communities to participate fully in the structures and processes of government" The British Government has been committed since the introduction of direct rule in 1972 to a form of devolved government in Northern Ireland "which is likely to be widely accepted throughout the community" as provided in the Northern Ireland Constitution Act 1973 (s.2). The focus of the New Ireland Forum on new structures for the whole of Ireland did not permit any explicit statement on the form of government within Northern Ireland as such. The specific provisions of the Agreement on these matters are set out in Article 4.

A: STATUS OF NORTHERN IRELAND

Article 1

The two Governments

- (a) affirm that any change in the status of Northern Ireland would only come about with the consent of a majority of the people of Northern Ireland;
- (b) recognise that the present wish of a majority of the people of Northern Ireland is for no change in the status of Northern Ireland;
- (c) declare that, if in the future a majority of the people of Northern Ireland clearly wish for and formally consent to the establishment of a united Ireland, they will introduce and support in the respective Parliaments legislation to give effect to that wish.

GENERAL NOTE

In the drafting of this Article there was a conscious effort by both sides to avoid dispute on the definition of a current status for Northern Ireland. As was said at the time the two states came to the negotiations with "different title deeds". As a result the emphasis in Article 1 is laid on the agreed conditions for any future change in the status of Northern Ireland. The intention was to reassure unionists that their right to remain in the United Kingdom, as declared in section 1 of the Northern Ireland Constitution Act 1973, was formally recognised by the Irish Government, while at the same time assuring nationalists that if they secured the consent of unionists for a united Ireland the British Government would implement it. This

DECLARATION

of the Joint Declaration by the
Prime Minister, Mr Albert Reynolds TD
December 1993

within Northern Ireland, for the whole island,
and between these islands.

3. They also consider that the development of Europe will, of itself, require new approaches to serve interests common to both parts of the island of Ireland, and to Ireland and the United Kingdom as partners in the European Union.

4. The Prime Minister, on behalf of the British Government, reaffirms that they will uphold the democratic wish of a greater number of the people of Northern Ireland on the issue of whether they prefer to support the Union or a sovereign united Ireland. On this basis, he reiterates, on behalf of the British Government, that they have no selfish strategic or economic interest in Northern Ireland. Their primary interest is to see peace, stability and reconciliation established by agreement among all the people who inhabit the island, and they will work together with the Irish Government to achieve such an agreement, which will embrace the totality of relationships. The role of the British Government will be to encourage, facilitate and enable the achievement of such agreement over a period through a process of dialogue and co-operation based on full respect for the rights and identities of both traditions in Ireland. They accept that such agreement may, as of right, take the form of agreed structures for the island as a whole, including a united Ireland achieved by peaceful means on the following basis. The British Government agree that it is for the people of the island of Ireland alone, by agreement between the two parts respectively, to exercise their right of self-determination on the basis of consent, freely and concurrently given, North and South, to bring about a united Ireland, if that is their wish. They reaffirm as a binding obligation that they will, for their part, introduce the necessary legislation to give effect to this, or equally to

any measure of agreement on future relationships in Ireland which the people living in Ireland may themselves freely so determine without external impediment. They believe that the people of Britain would wish, in friendship to all sides, to enable the people of Ireland to reach agreement on how they may live together in harmony and in partnership, with respect for their diverse traditions, and with full recognition of the special links and the unique relationship which exist between the peoples of Britain and Ireland.

5. The Taoiseach, on behalf of the Irish Government, considers that the lessons of Irish history, and especially of Northern Ireland show that stability and well-being will not be found under any political system which is refused allegiance or rejected on grounds of identity by a significant minority of those governed by it. For this reason, it would be wrong to attempt to impose a united Ireland, in the absence of the freely given consent of a majority of the people of Northern Ireland. He accepts, on behalf of the Irish Government, that the democratic right of self-determination by the people of Ireland as a whole must be achieved and exercised with and subject to the agreement and consent of a majority of the people of Northern Ireland and must, consistent with justice and equity, respect the democratic dignity and the civil rights and religious liberties of both communities, including:

- the right of free political thought;
- the right to freedom and expression of religion;
- the right to pursue democratically national and political aspirations;
- the right to seek constitutional change by peaceful and legitimate means;
- the right to live wherever one chooses without hindrance;
- the right to equal opportunity in all social and economic activity, regardless of class, creed, sex or colour.