

Northern Ireland (Entry to Negotiations, etc) Bill

EXPLANATORY AND FINANCIAL MEMORANDUM

The Bill gives effect to the announcement by the Prime Minister on 21 March of arrangements leading to all-party negotiations in Northern Ireland.

Clause 1, with *Schedule 1*, provides for the holding of elections for the purpose of providing delegates from among whom participants in negotiations may be drawn. They are to be held on the basis of lists submitted by a 'nominating representative' on behalf of the participating parties, which are listed in the Schedule. Five delegates will be returned from each constituency in Northern Ireland; in addition two delegates will be returned for each of the ten parties who gain the largest aggregate vote across all the constituencies and on whose behalf a 'regional list' has been submitted. There is provision for disqualification and the franchise, and a power by Order to make further provision for the elections.

Clause 2 makes provision about the selection, from among the delegates of successful parties, of teams of delegates to participate in the negotiations.

Clause 3 and *Schedule 2* provide for a forum for discussion of issues relevant to promoting dialogue and understanding within Northern Ireland, to be constituted by the delegates returned at the elections. *Clause 3* makes clear that the forum is to be deliberative only, and hence without legislative, executive or administrative functions, or power to determine the conduct, course or outcome of negotiations; though these provisions will not prevent it from considering matters referred to it from the negotiations. *Schedule 2* makes supplementary provision.

Clause 4 provides that referendums may, with parliamentary approval, be held on any matter relating to Northern Ireland; though not so as to encroach on the provisions for a poll on the status of Northern Ireland under the Northern Ireland Constitution Act 1973.

Clause 5 provides for the Secretary of State to designate nominating representatives under the Bill, and publish their names.

Clause 6 provides for the payment of allowances to delegates, and for the Secretary of State's expenses under the Bill to be paid out of money provided by Parliament.

Clause 7 provides for *clause 3* (the forum) to cease to have effect at the end of May 1997; but with powers for the Secretary of State, with parliamentary approval, to maintain or revive it until a time not later than May 1998; or to provide for it to cease to have effect earlier than it otherwise would. He would be required to exercise the last power if the negotiations were concluded or suspended. *Clause 4* (referendums) ceases to have effect at the end of May 1999.

ii *Northern Ireland (Entry to Negotiations, etc)*

Financial effects

The expenses to be incurred in connection with the elections under the Bill are estimated at about £1.1 million. There will be further expenditure on allowances for delegates, servicing of the forum and to pay the costs of any referendum.

Effects on public service manpower

There may be a small temporary rise in public service manpower in connection with the forum, unlikely to exceed fifteen.

Business compliance cost assessment

No significant cost implications for business are likely to arise under the Bill.

Northern Ireland (Entry to Negotiations, etc) Bill

ARRANGEMENT OF CLAUSES

Clause

1. The elections.
2. The negotiations.
3. The forum.
4. Referendums.
5. "Nominating representative" of a party.
6. Allowances and Secretary of State's expenses.
7. Duration of sections 3 and 4.
8. Short title.

SCHEDULES:

Schedule 1 —The elections.

Part I—General.

Part II—The parties.

Schedule 2 —The forum.

DRAFT
OF A
B I L L
TO

Make provision for elections in Northern Ireland for the purpose of providing delegates from among whom participants in negotiations may be drawn; for a forum constituted by those delegates; for referendums in Northern Ireland; and for connected purposes. A.D. 1996.

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) Elections shall be held in Northern Ireland for the purpose of providing delegates from among whom participants in negotiations may be drawn. The elections.
(2) Schedule 1 (which makes provision as to the holding of the elections and the provision of delegates) shall have effect.

10 2.—(1) The negotiations mentioned in section 1 are the negotiations referred to in Command Paper 3232 presented to Parliament on 16th April 1996. The negotiations.
15 (2) As soon as practicable after the elections, the Secretary of State shall invite the nominating representative of each party for which delegates have been returned in accordance with Schedule 1 to nominate, from among those delegates, a team to participate in the negotiations.
20 (3) The Secretary of State shall refrain from inviting nominations from the nominating representative of a party, or exclude delegates already nominated from entering into the negotiations, if and for as long as he considers that requirements set out in Command Paper 3232 are not met in relation to the party.
(4) The nominating representative of a party may from time to time substitute for any member of the team nominated for that party another delegate returned for that party in accordance with Schedule 1.

The forum.

3.—(1) The delegates returned in accordance with Schedule 1 shall constitute a forum for the discussion of issues relevant to promoting dialogue and understanding within Northern Ireland.

(2) The functions of the forum shall be deliberative only.

(3) Accordingly the forum shall not have any legislative, executive or administrative functions, or any power to determine the conduct, course or outcome of the negotiations mentioned in section 1. 5

(4) But if, in accordance with any rules of procedure adopted by them, the participants in the negotiations refer any matter to the forum, subsection (3) shall not be taken to prevent the forum from considering that matter. 10

(5) Schedule 2 shall have effect in relation to the forum.

Referendums.

4.—(1) The Secretary of State may from time to time by order direct the holding of a referendum for the purpose of obtaining the views of the people of Northern Ireland on any matter relating to Northern Ireland.

(2) An order under subsection (1) shall be made by statutory instrument; but no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament. 15

(3) An order under subsection (1) may include such provision relating to the conduct of the referendum as appears to the Secretary of State expedient, including provision— 20

- (a) as to the persons entitled to vote;
- (b) applying, with or without modifications, any enactment (and in particular any enactment relating to elections) or any provision made under an enactment.

(4) Where an order under subsection (1) applies an enactment which empowers a person or body to make any provision or to do anything it may modify that enactment by substituting the Secretary of State for that person or body. 25

(5) No court shall entertain any proceedings for questioning the numbers, as certified by the Chief Electoral Officer for Northern Ireland or any officer appointed in accordance with an order under subsection (1), of any ballot papers counted or answers given in a referendum. 30

1973 c. 36.

(6) Nothing in this section shall be construed as authorising the Secretary of State to direct the holding of a poll otherwise than in accordance with Schedule 1 to the Northern Ireland Constitution Act 1973 in relation to the matters dealt with in section 1 of that Act (status of Northern Ireland as part of United Kingdom). 35

“Nominating representative” of a party.

5.—(1) In this Act “nominating representative” in relation to a party means the person who at any time appears to the Secretary of State to be the leader of the party or otherwise the most appropriate person to act on behalf of the party for the purposes of this Act. 40

(2) The Secretary of State shall cause to be published in the Belfast Gazette—

- (a) an initial list of the nominating representatives of the parties listed in Part II of Schedule 1; 45

- (b) notice of any change in the nominating representative of any of those parties.

6.—(1) The Secretary of State may pay allowances to delegates returned in accordance with Schedule 1, whether by reference to days on which they attend the forum or participate in negotiations or otherwise.

Allowances and Secretary of State's expenses.

(2) Any expenses incurred by the Secretary of State in connection with the elections or otherwise by virtue of this Act shall be paid out of money provided by Parliament.

7.—(1) Section 3 shall cease to have effect at the end of May 1997.

Duration of sections 3 and 4.

10 (2) The Secretary of State may by order provide that section 3 shall—

- (a) continue to have effect, or
(b) come into force again,

until a time, not later than the end of May 1998, specified in the order.

15 (3) The Secretary of State may by order provide that section 3 shall cease to have effect at a time specified in the order (being a time earlier than the time at which it would cease to have effect by virtue of subsection (1) or (2)).

(4) If it appears to the Secretary of State that the negotiations mentioned in section 1 are concluded or suspended, he shall by order under subsection (3) provide for section 3 to cease to have effect.

20 (5) Section 4 shall cease to have effect at the end of May 1999.

(6) An order under this section shall be made by statutory instrument; but no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

25 8. This Act may be cited as the Northern Ireland (Entry to Negotiations, etc) Bill. Short title.

SCHEDULES

Section 1(2).

SCHEDULE 1

THE ELECTIONS

PART I

GENERAL

5

Orders

1.—(1) The Secretary of State may by order make provision about the elections, and any other provision consequential on or supplementary to this Schedule.

(2) An order under this paragraph may apply, with or without modifications, any enactment (and in particular any enactment relating to elections) or any provision made under an enactment.

10

(3) Where an order under this paragraph applies an enactment which empowers a person or body to make any provision or to do anything it may modify that enactment by substituting the Secretary of State for that person or body.

(4) An order under this paragraph shall be made by statutory instrument; but no order shall be made unless a draft has been laid before, and approved by resolution of, each House of Parliament.

15

Return of delegates

2.—(1) Five delegates shall be returned for each of the parliamentary constituencies in Northern Ireland and twenty for Northern Ireland as a whole.

20

S.I. 1995/2992.

(2) The constituencies referred to in sub-paragraph (1), and in the following provisions, are those provided for in the Parliamentary Constituencies (Northern Ireland) Order 1995.

Date of poll

3. The poll in the elections shall be held on a date provided for by an order under paragraph 1.

25

Franchise

4. The persons entitled to vote at the election in a constituency shall be those who both—

(a) would be entitled to vote as electors at a local election in a district electoral area wholly or partly comprised in the constituency, and

30

(b) are registered at an address within the constituency in a register of local electors.

Parties and party lists

5.—(1) The elections shall be conducted on the basis of lists submitted by the nominating representatives of parties.

35

(2) The parties for which lists may be submitted are those set out in Part II of this Schedule.

6.—(1) The nominating representative of each of those parties may (within such time as may be prescribed by an order under paragraph 1) submit to the Chief Electoral Officer for Northern Ireland separate lists of candidates for all or any of the constituencies ("constituency lists").

40

(2) If a nominating representative submits at least one constituency list, he may also submit a list of candidates for Northern Ireland as a whole (a "regional list").

(3) The number of candidates on a constituency list must be at least two and not more than five.

5 (4) The number of candidates on a regional list must be at least two and not more than ten.

(5) A constituency list for a party may not include a candidate who is on another constituency list for the party.

10 (6) A party's regional list must include at least two candidates who are not on a constituency list for the party.

Method of election

7.—(1) Each elector shall have one vote, to be cast for a party named on the ballot paper for the constituency.

15 (2) The ballot paper shall show the names of each of the parties for which a constituency list has been submitted for the constituency.

Constituency delegates

8.—(1) For each constituency there shall be calculated—

- (a) the total number of votes given;
- (b) the quota for the constituency;

20 (c) the number of votes given for each party.

(2) The quota for a constituency is—

$$\frac{T}{6} + 1$$

where T is the total number of votes given.

9.—(1) If the number of votes given for a party in a constituency equals or exceeds the quota, one of the candidates on the party's constituency list shall be returned from the constituency as a delegate.

(2) But if the number of votes equals or exceeds a multiple of the quota, a correspondingly greater number of candidates shall be returned (up to the number appearing on the list).

30 10. If the application of paragraph 9 produces fewer than five delegates, then—

- (a) there shall be calculated for each party (excluding any whose constituency list has been exhausted) the quotient representing—

$$\frac{V}{N+1}$$

35 where V is the number of votes given for the party and N is the number of the party's candidates returned as delegates by the previous application of paragraph 9 (or paragraph 9 and this paragraph);

- (b) a candidate on the list of the party with the highest quotient shall be returned as a delegate.

40 11. If the application of paragraph 10 produces fewer than five delegates, it shall be applied again until five delegates have been produced (or all the constituency lists have been exhausted).

12. The order in which the candidates on a party's list are returned for a constituency shall be the order in which they appear on the list.

SCH. 1

13. An order under paragraph 1 shall make provision as to the return of delegates in the event of an equality of quotients.

Regional delegates

14.—(1) For each party having a regional list the aggregate number of votes given in all the constituencies shall be calculated. 5

(2) Two candidates from the regional list of each of the ten parties with the largest aggregates shall be returned as delegates.

15. The order in which the candidates on a party's regional list are returned shall be the order in which they appear on the list, except that a candidate returned at the election for a constituency shall be disregarded. 10

16. An order under paragraph 1 shall make provision as to the return of delegates in the event of an equality of votes.

Disqualification

1983 c. 2.

17. A person is disqualified for being on a constituency or regional list if—

- (a) he is a person to whom section 3 of the Representation of the People Act 1983 applies (disfranchisement of offenders in prison), or 15
- (b) he is authorised to be detained on the ground (however formulated) that he is suffering from mental illness, or
- (c) he is not of voting age within the meaning of section 1 of that Act.

Amendment of lists, and vacancies 20

18.—(1) A person's name shall be treated as removed from a party's constituency or regional list if he dies or is disqualified or if the Secretary of State receives a written request for removal from—

- (a) that person, or
- (b) the party's nominating representative. 25

(2) A person whose name is treated as removed from a list shall (if he is one) cease to be a delegate or a member of a team nominated under section 2(2) or (4).

19.—(1) This paragraph shall apply where a person ceases to be a delegate in accordance with paragraph 18.

(2) Where the delegate was appointed from a party's constituency list, there shall be returned as a delegate in his place— 30

- (a) the next person on that list who is not a delegate, or
- (b) if there is no such person, the next person on the party's regional list who is not a delegate.

(3) Where the delegate was appointed from a regional list, there shall be returned as a delegate in his place the next person on that list who is not a delegate. 35

(4) A vacancy which cannot be filled by the application of sub-paragraph (2) or (3) shall remain unfilled.

20. Where a party ceases to exist, any persons on its lists who are delegates or members of a team nominated under section 2(2) or (4) shall cease to be so. 40

PART II
THE PARTIES

SCH. 1

- Alliance Party
- 5 British Ulster Unionist Party
- Conservative Party
- Democratic Left
- Democratic Partnership
- Democratic Unionist - DUP
- 10 Green Party
- Independent Chambers
- Independent Democratic Unionist Party
- Independent Kerr
- Independent McCaffrey
- 15 Independent McGrath
- Independent McMullan
- Independent Sinclair
- Independent Templeton
- Labour
- 20 Natural Law Party
- No Going Back
- Northern Ireland Party (NIP)
- Northern Ireland Womens' Coalition
- Progressive Unionist Party (PUP)
- 25 Sinn Fein
- Social Democratic and Labour Party
- UK Unionist Party - Robert McCartney
- Ulster Christian Democrat Party
- Ulster Democratic Party (UDP)
- 30 Ulster Independence
- Ulster's Independent Voice
- Ulster Unionist Party (UUP)
- Workers' Party

SCHEDULE 2

Section 3(5).

- 35 THE FORUM
Chairman

1.—(1) There shall be a chairman of the forum.

(2) The chairman shall be elected by the members, but until the first election has taken place he shall be a member nominated by the Secretary of State.

SCH. 2

Meetings

2.—(1) The first meeting of the forum shall be at a time decided by the Secretary of State.

(2) Subsequent meetings shall be at times determined by the members of the forum. 5

(3) But the forum shall not meet at any time notified by the Secretary of State to the chairman as being a time when, in the opinion of the Secretary of State, it would not be appropriate for the forum to meet because negotiations within section 2 may take place.

Procedure

10

3.—(1) Subject to the provisions of this Schedule, the proceedings of the forum (and of any committee it may establish) shall be conducted in accordance with rules of procedure determined by the members of the forum and approved by the Secretary of State.

(2) The rules of procedure of the forum shall include provision for a quorum. 15

(3) Until rules of procedure have been determined and approved under subparagraph (1) proceedings shall be conducted in accordance with rules determined by the Secretary of State and notified by him to the chairman.

4. A decision on the election or removal of a chairman or the adoption or alteration of rules of procedure shall not be regarded as taken by the members unless— 20

(a) no member present has objected to it, or

(b) it is approved on a vote by at least 75 per cent. of those voting.

Privilege

5. A written or oral statement made by a member of the forum in or for the purposes of the forum (or any committee it may establish) shall be privileged from action for defamation unless it is proved to have been made with malice. 25

Miscellaneous

6. The Secretary of State shall provide for the forum the services of such staff, the use of such premises and such other facilities as he thinks appropriate. 30