



# Memorandum to the Northern Ireland Affairs Committee

Post-Legislative Scrutiny

The Terrorism (Northern Ireland) Act 2006

The Northern Ireland (Miscellaneous Provisions)  
Act 2006

The Northern Ireland Act 2006

The Northern Ireland (St Andrews Agreement)  
Act 2006

Presented to Parliament by the Secretary of State  
for Northern Ireland by Command of Her Majesty

January 2012

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# **MEMORANDUM TO THE NORTHERN IRELAND AFFAIRS COMMITTEE**

## **Post-Legislative Scrutiny**

- 1. The Terrorism (Northern Ireland) Act 2006**
- 2. The Northern Ireland (Miscellaneous Provisions) Act 2006**
- 3. The Northern Ireland Act 2006**
- 4. The Northern Ireland (St Andrews Agreement) Act 2006**

### **Introduction**

This Memorandum has been prepared by the Northern Ireland Office for submission to the Northern Ireland Affairs Committee (“the Committee”) and is published as part of the post-legislative scrutiny process set out in Cm 7320. It provides the Committee with the Department’s post-legislative assessment of the four Northern Ireland Acts listed above that received Royal Assent in 2006.

### **1. The Terrorism (Northern Ireland) Act 2006**

#### **Introduction**

The Terrorism (Northern Ireland) Act 2006 (the “2006 Act”) received Royal Assent on 16 February 2006 and came into force at the end of 18 February 2006.

#### **Objectives**

The 2006 Act extended the duration of the majority of the powers contained in Part VII of the Terrorism Act 2000 (the “2000 Act”) to 31 July 2007. Part VII provided for special counter terrorism powers in relation to Northern Ireland only. In extending the powers in Part VII to 31 July 2007 the 2006 Act was consistent with a commitment given in a statement made by the then Secretary of State on 1 August 2005. That statement launched a programme of security normalisation that included a commitment to repeal all counter-terrorist legislation particular to Northern Ireland within two years, subject to an enabling environment. The provisions contained in Part VII were time-limited, and, without the 2006 Act, would have expired at the end of 18 February 2006. The 2006 Act also made some minor amendments to Part VII; repealed provisions of Part VII which were not in force at the date the 2006 Act was commenced; and created a new power to make transitional and saving provision connected with the expiry of Part VII.

#### **Implementation**

All the provisions of the 2006 Act came into force at the end of 18 February 2006.

#### **Secondary legislation etc**

Section 1(3) of the 2006 Act contained a once-only power to extend the operation of Part VII of the 2000 Act for one further year (i.e. not beyond 1 August 2008). That power was included in the 2006 Act as a prudent measure in case the security situation did not improve sufficiently to enable Part VII to cease to have effect on 31 July 2007. This power was not exercised.

Section 4 of the 2006 Act enabled the Secretary of State, by order, to make transitional and saving provision in connection with the provisions of Part VII ceasing to have effect. This power was considered necessary because the existing transitional provisions for Part VII contained in section 113 of the 2000 Act did not cover all matters where transitional and saving provision would be necessary.

The Terrorism (Northern Ireland) Act 2006 (Transitional Provisions and Savings) Order 2007 (SI 2007/2259) was made on 30 July 2007 and came into force at the end of 31 July 2007. It made extensive transitional and saving provision connected with the expiry of Part VII, including:

- preservation of special bail arrangements where those arrangements were in place before the expiry of Part VII;
- preservation of appeal arrangements in respect of those charged and convicted of offences tried without a jury before the expiry of Part VII;
- provision for cases where police and military powers (e.g. powers of search) under the 2000 Act may have been exercised at the point of expiry of Part VII;
- savings in respect of Secretary of State powers in respect of road closure and land requisition and the preservation of associated offences;
- preservation of certain powers connected with the office of the Independent Assessor of Military Complaints Procedures; and
- measures to preserve the right to compensation in respect of security force action taken while Part VII was in force, and to enable Government to pay such compensation.

### **Legal issues**

No particular legal issues arose in connection with the 2006 Act.

### **Other reviews**

Section 14(5) of the Prevention of Terrorism Act 2005 requires the person appointed under that section (currently David Anderson QC but Lord Carlile in 2006) to review the operation of that Act, and to report on the implications for the operation of that Act of any proposal made by the Secretary of State for the amendment of the law relating to terrorism. Accordingly, a copy of the Bill was sent to Lord Carlile for comment. He reported in October 2005 that were it not for the powers in the Bill he “would be driven to the conclusion that there would be a risk of more terrorist acts connected with the island of Ireland rather than less.” He concluded that the Bill was consistent with the security normalisation commitment and that the power to make transitional provision in section 4 of the 2006 Act provided a better constructed transitional programme than the existing provisions in section 113 of the 2000 Act.

At the request of Government, Lord Carlile prepared a special report on the Government’s approach to repeal of the Part VII powers. On 23 July 2007 Lord Carlile wrote to the then Secretary of State with his views. He concluded that the transitional measures in The Terrorism (Northern Ireland) Act 2006 (Transitional Provisions and Savings) Order 2007 were “an unexceptionable interim measure for dealing with pending cases and comparable issues” and that the commitment to repeal all counter-terrorist legislation particular to Northern Ireland had been met.

Under an International Agreement between the British and Irish Governments, the Independent Monitoring Commission was charged with reporting on the delivery of the commitments made in the security normalisation programme. In their Sixteenth Report, published in September 2007 they concluded that the formal requirements of the programme had been met.

### **Preliminary Assessment of the 2006 Act**

The Government considers that the 2006 Act has achieved its purpose. The 2006 Act extended the provisions contained in Part VII of the 2000 Act but provided that they should expire at

the end of 31 July 2007, thereby fulfilling the security normalisation commitment. The power contained in section 4 of the 2006 Act enabled proper transitional and saving provision to be made. This was necessary to enable a smooth transition when the Part VII powers expired. In particular, it provided legal certainty about the use of the power and preserved a number of the safeguards contained in Part VII. Both Lord Carlile and the Independent Monitoring Commission were content with the arrangements the 2006 Act made for the expiry of Part VII and the way the powers under the Act were exercised.

## **2. The Northern Ireland (Miscellaneous Provisions) Act 2006**

### **Introduction**

The Northern Ireland (Miscellaneous Provisions) Act 2006 (the “2006 Act”) received Royal Assent on 25 July 2006. The 2006 Act made provision for various matters relating to: the registration of electors, the Chief Electoral Officer for Northern Ireland (“Chief Electoral Officer”); donations for political purposes; the mechanisms for the creation of a Department of Justice and appointments to the post of Justice Minister, in the event of devolution of those functions; and an extension of the period of an amnesty for arms decommissioning.

It should be noted that where provision was made in the 2006 Act in an area which returned to the remit of the Northern Ireland Assembly and Executive when devolution was restored in May 2007, those provisions are not examined in any detail in this Memorandum.

### **Objectives**

The 2006 Act was, in the main, a legislative vehicle for various miscellaneous provisions in policy areas which remained excepted or reserved to Westminster under the terms of the Northern Ireland Act 1998. The 2006 Act was passed during a period of suspension of the Northern Ireland Assembly and consequently it also made provision in several areas for which responsibility would usually sit with the devolved legislature.

Parts 1, 2 and 3 of the 2006 Act aimed to achieve the following key objectives:

- Reform and modernise electoral registration arrangements in Northern Ireland to improve, in particular, the comprehensiveness of the electoral register;
- Align the terms and conditions of the appointment of the Chief Electoral Officer with modern public appointments law and practice; and
- Put a legislative framework in place to allow for the regulation of political donations in Northern Ireland, tailored to meet the specific circumstances that arise there.

Part 4 of the 2006 Act had the objective of allowing the devolution of policing and justice to the Northern Ireland Assembly to be carried out by Order, without the need for further primary legislation, once the Northern Ireland political parties had settled on institutional models for devolved policing and justice functions and had agreed the process for appointing a Justice Minister. The 2006 Act did not, in itself, initiate the devolution process.

Part 5 of the 2006 Act had the objective of providing a legislative basis for various miscellaneous matters, including an extension of the amnesty period for arms decommissioning, financial provisions relating to energy and sustainable development, and the extension to Northern Ireland of parts of the Serious and Organised Crime and Police Act 2005.

Part 6 is supplementary to the other parts, and deals with financial provisions, minor and consequential amendments to other legislation as a result of the Act, and the commencement, extent and short title of the 2006 Act.

## Implementation

### Parts 1-3

**Section 1** (power to make provision about anonymous registration) of the 2006 Act is an enabling power allowing provision to be made by Order in Council for the introduction of a system of anonymous registration of electors in Northern Ireland similar or corresponding to that which operates in Great Britain<sup>1</sup>. Section 1 came into force on Royal Assent (25 July 2006) but no Order in Council has yet been made. This is because use of the enabling power will require subsequent substantial changes to electoral law in Northern Ireland. In Spring 2008 the Department consulted on the introduction of anonymous registration of electors. However there followed a number of elections in subsequent years (2009, 2010 and 2011<sup>2</sup>) so implementation was delayed because it would have been inappropriate to make such changes during that electoral cycle<sup>3</sup>. It is intended that an Order in Council will be made to introduce anonymous registration in Northern Ireland before the European parliamentary elections in 2014.

**Section 10**, which makes provision for the commencement of Part 3 (donations for political purposes) of the 2006 Act, also came into force on Royal Assent. Section 10 brought the “final disapplication period” (**section 11**) and the power to make provision in connection with permissible donors (**section 15**) into force on 25 September 2006. It also brought **Sections 12, 13 and 14** and **Schedule 1** into force on 1 November 2007. These provisions relate to permissible donors and the prescribed period (originally for the period 1 November 2007 to 31 October 2010). During the prescribed period details relating to donations must be reported to the Electoral Commission as they must be elsewhere in the UK but in respect of Northern Ireland the Commission is required to keep this information confidential and its registers are not available for inspection. Instead, however it may be required to undertake additional verification checks of the donations reported to it. Section 14(3) contains an enabling power to extend the prescribed period by Order subject to affirmative resolution for up to two years at a time. Section 15 is an enabling power and has been used to make provision in relation to donations from Irish citizens and bodies as well as for the additional verification checks that must be undertaken by the Electoral Commission during the prescribed period.

Provision to commence the remaining electoral registration provisions, except section 6, was made in the first commencement order<sup>4</sup>. **Sections 2-5**, relating to the canvass in Northern Ireland, accordingly came into force on 1 December 2006, and **section 7** (data collection), along with those provisions relating to the Chief Electoral Officer (**sections 8 and 9**) came into force on 16 October 2006. **Section 6** makes provision for the alteration of registers pending elections and was brought into force on 14 May 2008. The commencement of both sections 6 and 7 (which contain enabling powers) was timed to coincide with the updating generally of the Representation of the People (Northern Ireland) Regulations (S.I. 2008/1741)<sup>4</sup> (“2008 Regulations”) which were made on 30th June 2008.

### Part 4

**Section 16:** This section set out that the Secretary of State could not lay an Order which proposed transferring policing and justice matters from the reserved to the transferred field until the Northern Ireland Assembly had passed a resolution with cross-community support calling for such a step.

The Northern Ireland Assembly passed a resolution on 9 March 2010 praying that policing and justice functions should cease to be reserved, and the Northern Ireland Act 1998 (Amendment

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<sup>1</sup> Provision for the anonymous registration of electors in Great Britain was made by the Electoral Administration Act 2006 (c. 22)

<sup>2</sup> In June 2009 there were elections to the European Parliament and there were also due to be local elections in Northern Ireland that year (although these were postponed in February of that year until 2011); in May 2010 there were UK parliamentary elections; and in 2011 the AV referendum, Assembly elections and local elections to all councils in Northern Ireland.

<sup>3</sup> The Northern Ireland (Miscellaneous Provisions) Act 2006 (Commencement No.1) Order 2006 (SI 2006/2688).

<sup>4</sup> The Northern Ireland (Miscellaneous Provisions) Act 2006 (Commencement No.4) Order 2008 (SI 2008/1318).

of Schedule 3) Order 2010<sup>5</sup>, which removed the reservation, was subsequently made on 31 March 2010.

**Section 17:** Following a prolonged period of discussion involving the UK and Irish Governments of the time and the Northern Ireland political parties which concluded with the Agreement at Hillsborough Castle on 5 February 2010, policing and justice functions were devolved to the Northern Ireland Assembly on 12 April 2010, and David Ford MLA of the Alliance Party was appointed as Justice Minister.

This was facilitated by the passage in the Assembly of the Department of Justice Act (Northern Ireland) 2010, which provided for the establishment of the Department of Justice and for the appointment of the Minister to be in charge of that Department. Schedule 2 of the 2006 Act inserted into the 1998 Act a new Schedule 4A, setting out provisions relating to the appointment of the Justice Minister.

The 2006 Act also allowed the First Minister and deputy First Minister to set out, by Order, the date on which the Department of Justice was to be created. This followed the model set out in section 21A of the Northern Ireland Act 1998 (which was inserted by section 17 of the 2006 Act), and further provided that the Justice Minister should be appointed in accordance with the provisions of section 21A(3)(b) – approval by a resolution of the Assembly passed with cross community support.

**Section 18:** restricts the power of the Northern Ireland Assembly to call for witnesses or documents if they relate to a matter which moves from the reserved to the transferred fields by virtue of an Order made under s4 of the Northern Ireland Act 1998. It also prevents that power being exercised in relation to periods when relevant statutory functions were being carried out by a Minister of the Crown.

By inserting s86A into the 1998 Act, **section 19** provided that functions relating to extradition and related matters could be transferred to the relevant Northern Ireland authorities by Order in Council. The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 included provisions to this effect.

**Section 20:** provided that enactments made under s7 of the 1998 Act could become entrenched, or cease to be entrenched, by Order in Council made under a new s86B of the 1998 Act.

## **Part 5**

**Section 21** – on the extension of an amnesty period for arms decommissioning – came into force on 10 December 2006, and given practical effect when the Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 2009 (S.I. 2009/281) was made, extending the amnesty period until 9 February 2010.

**Section 22** – on the increase of limits on loans to the Northern Ireland Consolidated Fund – was brought into force on Royal Assent.

**Sections 23 and 27** are now transferred matters within the remit of the Northern Ireland departments, and came into force on Royal Assent. Section 25 is also within the remit of Northern Ireland departments, and was commenced on 31 March 2007.

**Section 26** – the extension to Northern Ireland of certain provisions of the Serious Organised Crime and Police Act 2005 – came into force on 1 December 2006 by inserting into that act the provisions set out in Schedule 3 of the 2006 Act.

**Section 28** – duty to fill judicial vacancies – was commenced on Royal Assent.

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<sup>5</sup>(SI 2010/977)

## Secondary legislation

Secondary legislation under the powers of this Act has been made as follows:

### Parts 1-3

Section 6 of the 2006 Act makes provision for late electoral registration in Northern Ireland. This enables individuals to register up until the “prescribed date” before the day of the poll on provision of the additional supporting material requested by the Chief Electoral Officer. Regulation 25 of the **2008 Regulations** prescribes the date as the eleventh day before the day of the poll. It also prescribes the additional supporting material that may be requested to prove the applicant’s date of birth, nationality, address and three month residency in Northern Ireland<sup>6</sup>.

Section 7 allows regulations to be made requiring specified authorities or individuals to provide the Chief Electoral Officer with information to assist him or her meet the relevant registration objectives. Provision for this was first made by the Representation of the People (Northern Ireland) (Amendment) Regulations 2007 (SI 2007/1612) which amended the Representation of the People (Northern Ireland) Regulations 2001 (S.I. 2001/400). Both those sets of regulations were subsequently replaced by the 2008 Regulations. Provision for specified authorities is made by regulations 41-43 of the 2008 Regulations (which themselves contain relevant amendments made by the Representation of the People (Northern Ireland) (Amendment) Regulations 2010 (S.I. 2010/278). Specified authorities from whom the Chief Electoral Officer may now request information include district councils, the Department for Work and Pensions and the Northern Ireland Housing Executive, secondary schools and Further Education Colleges – the latter two in order to facilitate the registration of under-18s in Northern Ireland.

Section 12 of the 2006 Act amends the Political Parties, Elections and Referendums Act 2000 (c.41) (“PPERA”) to provide that Irish citizens and bodies fulfilling specified criteria are permissible donors in relation to Northern Ireland recipients. **The Political Parties, Elections and Referendums Act 2000 (Northern Ireland Political Parties) Order 2007 (SI 2007/2501)** prescribes the criteria that must be met in respect of the above. The 2007 Order also makes provision under section 15 of the 2006 Act setting out the steps to which the Electoral Commission must adhere when verifying information in Northern Ireland donation reports and the bodies to whom information in a donation report may be disclosed for the purpose of verification. Schedule 1 to that Order amends PERPA to provide for the reporting of Irish donations.

Sections 2 and 3 of the 2006 Act amended the Representation of the People Act 1983 (“1983 Act”) so as to abolish the requirement of an annual canvass in Northern Ireland and replace it with the requirement for a periodic canvass. Section 3 inserted new section 10ZA which required a canvass to be conducted in 2010 unless an Order was made providing that this requirement did not apply. **The Representation of the People (Timing of the Canvass) (Northern Ireland) Order 2010 (SI 2010/1152)** was made on 31 March 2010 and provided that the Chief Electoral Officer did not need to conduct a canvass in 2010. By virtue of section 10ZA(3) of the 1983 Act (as inserted by section 3 of the 2006 Act) a canvass must be conducted in 2016 if one has not been conducted, on the advice of the Chief Electoral Officer, before the end of 2015.

### Part 4

The Northern Ireland Act 1998 (Amendment of Schedule 3) Order 2010 was made on 31 March 2010 under section 4 of the Northern Ireland Act 1998 as amended by section 16 of the 2006 Act, to provide for legislative powers for certain policing and justice matters to be transferred to the Northern Ireland Assembly.

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<sup>6</sup>The list of material that may be used in support of a late registration application was further extended by regulation 2 of the *Representation of the People (Northern Ireland) (Amendment) Regulations 2010 (SI 2010/278)*.



The Northern Ireland Act 1998 (Devolution of Policing and Justice Functions) Order 2010 was made under sections 86 and 86A of the 1998 Act and includes provisions which were consequential on, or otherwise give effect to, the Amendment of Schedule 3 Order above.

### **Legal issues**

The prescribed period for donations for political purposes in Northern Ireland was extended in 2011 using the enabling power contained in s.14 of the Northern Ireland (Miscellaneous Provisions) Act 2006. It was not envisaged in 2006 that the power needed to provide for flexibility, so primary legislation will be needed to vary the arrangements, creating greater transparency while retaining the anonymity of donors.

### **Other reviews**

The Department is not aware of any other substantive reviews of the Act. In 2008 the Electoral Commission carried out an assessment of the accuracy of the electoral register as it stood in December 2007, the first to have been compiled under the provisions of this Act.

## **Preliminary Assessment of the Act**

### **Part 1: Registration of electors**

#### **Section 1 – Anonymous registration**

Section 1 of the 2006 Act contains an enabling power to allow for secondary legislation to be made which will introduce a system of anonymous registration of electors in Northern Ireland<sup>7</sup>. This enabling power has not yet been used. Further detail in relation to this has been provided in Part III.

#### **Section 2 – Abolition of annual canvass**

Prior to the introduction of the 2006 Act electors in Northern Ireland were required to re-register and provide their personal identifiers<sup>8</sup> every year in order to remain on the electoral register. Following the introduction of individual registration in Northern Ireland<sup>9</sup>, there were concerns that the annual canvass could be contributing to a downward trend in the size of the electorate.

Section 2 (which amends the 1983 Act) has achieved its twin objectives of preventing further decrease in the size of the electorate and allowing resources to be focused on encouraging registration in other ways. Following the last annual canvass in 2006 there was an increase of 50,863 (4.7%) in the size of the electorate in 2007. This upward trend has continued in subsequent years (see Annex A).

#### **Section 3 – Timing of the canvass**

Section 3 of the 2006 Act by way of amendment to the 1983 Act, still provides for a canvass to be conducted every ten years to fully refresh the register and to verify whether the continuous registration system is working effectively; and in an intervening year if necessary to meet the registration objectives (as set out in section 4 of the 2006 Act by way of amendment to the 1983 Act). Provision was also made for a canvass to be conducted in 2010 unless an Order was

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<sup>7</sup>Provision enabling electors to register to vote without having their personal details included in the electoral register was made in section 10 of the *Electoral Administration Act 2006* (c.22) and commenced on 1 January 2007. Section 10 was not extended to Northern Ireland due to legislative differences in relation to registration between GB and Northern Ireland.

<sup>8</sup>Further to reforms made in section 1 of the *Electoral Fraud (Northern Ireland) Act 2002* (c.13), individuals in Northern Ireland are required to provide their signature, date of birth and National Insurance number (“the personal identifiers”) for the purpose of registration.

<sup>9</sup>*Electoral Fraud (Northern Ireland) Act 2002* (c.13).

brought forward to provide that this requirement did not apply<sup>10</sup> if recommended by the Chief Electoral Officer. In October 2009, the Chief Electoral Officer wrote to the then Secretary of State recommending against the conduct of a canvass in 2010 and an Order under section 3 was made on 31 March 2010<sup>11</sup>.

#### **Section 4 – The relevant registration objectives<sup>12</sup>**

Section 4 (which inserted section 10ZB in the 1983 Act) sets new statutory registration objectives for the Chief Electoral Officer to, in effect, ensure that the register is as accurate and comprehensive as possible and section 9 requires the Chief Electoral Officer to assess the extent to which these objectives have been met in an annual report. The Chief Electoral Officer carries out a wide variety of activities to ensure that these objectives are met. These include initiatives to improve registration levels amongst under-represented groups such as under 18s and ensuring that all applications for registration are checked robustly<sup>13</sup>. In the Chief Electoral Officer's annual report for 2008/09, it was noted that the register was approximately 94.3% accurate in December 2007 and 83.4% comprehensive in December 2008.

#### **Section 6 – Alteration of registers: pending election**

Section 6 (which inserted the new section 13BA in the 1983 Act) allows individuals to register to vote closer to the date of the poll at elections in Northern Ireland; in line with provision made in the rest of the UK<sup>14</sup>. Unlike in GB, applicants registering during the 'late registration' period in Northern Ireland may not apply for an absent vote and must provide additional supporting documentation to demonstrate their eligibility. Regulation 25 of the 2008 Regulations sets the final date for registration at 11 days before the day of the poll and lists the additional supporting material that the Chief Electoral Officer may require to prove the applicant's eligibility<sup>15</sup>.

The 2009 European Parliamentary Election was the first election at which late registration applied in Northern Ireland. More than 5,600 individuals were added to the electoral register during this late registration period; a figure representing just under 0.5% of the total number of people registered to vote in Northern Ireland at the 2009 election. The Electoral Commission's report on this election indicated that there were no significant problems with the implementation of the late registration provision in Northern Ireland<sup>16</sup>.

#### **Section 7 – Data collection**

In order to ensure that the register continued to be updated and expanded in the absence of the annual canvass, the 2006 Act amended Schedule 2 to the 1983 Act enabling regulations to be made providing for the Chief Electoral Officer to access information from specified authorities and individuals to assist him to meet the registration objectives. These provisions were first made in the Representation of the People (Northern Ireland) (Amendment) Regulations 2007

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<sup>10</sup>Such an Order could only be brought forward if the Chief Electoral Officer recommended against the conduct of a canvass in 2010 on the basis that it would not help him to meet his registration objectives and if the Secretary of State, having considered this recommendation, was satisfied that the public interest did not require a canvass to be conducted for that purpose (section 3 of the 2006 Act (inserted section 102A in 1983 Act)).

<sup>11</sup>*The Representation of the People (Timing of the Canvass) (Northern Ireland) Order 2010* (SI 2010/1152).

<sup>12</sup>"The relevant registration objectives are to secure, so far as reasonably practicable – (a) that every person who is entitled to be registered in a register is registered in it, (b) that no person who is not entitled to be registered in a register is registered in it, and (c) that none of the required information relating to any person in a register is false." (Section 4 of the 2006 Act)

<sup>13</sup>For full details of steps taken by the Chief Electoral Officer in relation to the statutory objectives, see the annual reports (<http://www.eoni.org.uk/index/plans-and-reports.htm>).

<sup>14</sup>Late registration was introduced to England, Wales and Scotland in 2007 by virtue of section 11 of the Electoral Administration Act 2006 and commenced on 1 January 2007. Section 11 was not extended to Northern Ireland due to legislative differences in relation to registration between Northern Ireland and GB.

<sup>15</sup>The list of supporting material was amended by regulation 2 of the Representation of the People (Northern Ireland) (Amendment) Regulations 2010 (SI 2010/278).

<sup>16</sup>*The European Parliamentary and local government elections June 2009 (Report on the administration of the 4 June 2009 elections)*, The Electoral Commission, October 2009.

(SI 2007/1612)<sup>17</sup>; which were subsequently revoked and replaced by the 2008 regulations (in which the list of specified authorities was and subsequently have been, expanded) and the extent to which the Chief Electoral Officer has met his registration objectives (see above) demonstrate that these data sharing measures have been effective. In the year 2008/09, 130,175 changes were made to the register. These changes were due in large part to the provision of information from specified authorities – for example, 8,482 individuals were added to the register and the addresses of 15,583 individuals updated as a result of information provided by the Business Services Organisation.

## **Part 2: The Chief Electoral Officer**

### **Section 8 – Tenure**

Section 8 makes provision for the appointment and dismissal of the Chief Electoral Officer. The purpose of this was to ensure that the terms and conditions of appointment the Chief Electoral Officer were consistent with modern public appointments law and practice. The current Chief Electoral Officer was appointed in accordance with these provisions and section 8 will continue to apply to any future post holder.

## **Part 3: Donations for Political Purposes<sup>18</sup>**

### **Section 12 – Extension of categories of permissible donors**

One of the key objectives of Part 3 of the 2006 Act, as noted above, was to align the donations regime in Northern Ireland with that in the rest of the UK. However, in order to recognise the role of Ireland in Northern Ireland’s political life provision was made to allow Irish citizens and companies to continue to donate to Northern Ireland recipients<sup>19</sup>. Section 12 of the 2006 Act therefore inserts new sections 71A to 71C into PPERA. Section 71B extends the category of permissible donors to include Irish citizens and bodies donating to Northern Ireland recipients who meet any prescribed conditions or requirements. **The Political Parties, Elections and Referendums Act 2000 (Northern Ireland Political Parties) Order 2007 (SI 2007/2501)** makes further provision in relation to this, providing, for example, that Irish citizens wishing to donate to Northern Ireland recipients must be eligible to obtain an Irish passport or a certificate of nationality or naturalisation. New section 71C provides that parties registered in the Northern Ireland register (the register of parties that intend to contest elections in Northern Ireland and which is maintained by the Electoral Commission) are not permitted to donate to parties registered in the Great Britain register (register of parties that intend to contest elections in Great Britain) or regulated donees (see footnote above) who reside or carry on activities in Great Britain.

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<sup>17</sup>The 2007 Regulations provided for the Chief Electoral Officer to receive information from district councils, the Registrar General of Births and Deaths in Northern Ireland, the Northern Ireland Central Services Agency (now the Business Services Organisation), the Department for Work and Pensions and the Northern Ireland Housing Executive. The list has subsequently been extended, by the 2008 Regulations (SI 2008/1741) and the 2010 amendment Regulations (SI 2010/278), to include secondary schools and Further Education Colleges. It is likely that the list will be further amended as new and/or more efficient ways of collecting information become available and as links with other authorities and individuals are developed.

<sup>18</sup>Part 4 of the *Political Parties, Elections and Referendums Act 2000* (c.41) (PPERA) introduced wide ranging reforms in respect of donations to political parties, including a ban on overseas donations; a requirement to declare donations to the Electoral Commission and for these donation reports to be made public. The *Political Parties, Elections and Referendums Act 2000 (Disapplication of Part IV for Northern Ireland Parties, etc.) Order 2001* (SI 2001/446) exempted Northern Ireland from these requirements for four years. This exemption was renewed by Order for a further two years in 2005 (SI 2005/299). The exemption was applied to Northern Ireland due to concerns around possible intimidation of donors and the desire to allow Irish donations to Northern Ireland political parties to continue. However, in May 2004, the Government announced its intention to let the disapplication period expire and replace it with a system more aligned with that in place in the rest of the UK. Following consultation in 2005, it was decided that there should be a phased move towards full transparency; with Part 4 of PPERA implemented in Northern Ireland with modifications for a three year period (“the prescribed period”) before a fully transparent system was introduced. The prescribed period could be renewed for up to two years at a time by Order.

<sup>19</sup>New section 71A(2) of PPERA (inserted by section 12 of the 2006 Act) defines Northern Ireland recipient as “(a) a party registered in the Northern Ireland register, or (b) a regulated donee who is – (i) an individual ordinarily resident in Northern Ireland, or (ii) a members association wholly or mainly consisting of members of a Northern Ireland party.”

The Electoral Commission is responsible for administering the donations process in Northern Ireland and has reported no problems with donations received from Irish sources.

#### **Section 14 and Schedule 1 – Prescribed period**

Section 14 of the 2006 Act provides that from 1 November 2007<sup>20</sup>, PPERA applies to Northern Ireland with the modifications set out in Schedule 1 to the Act. These modifications provide that the Electoral Commission must not disclose any details in relation to donations made to Northern Ireland recipients. This was to protect donors from the perceived risk of intimidation.

The period prescribed in the 2006 Act expired on 1st March 2011 after being extended for a period of four months in October 2010 by the Control of Donations and Regulations of Loans etc. (Extension of the Prescribed Period) (Northern Ireland) Order 2010 (SI 2010/2061). Following a consultation in 2010 a further Order (The Control of Donations and Regulation of Loans etc (Extension of the Prescribed Period) (Northern Ireland) Order 2011 (SI 2011/431)) was made in 2011 ensuring identities of donors should continue to be kept confidential for a further two years.

#### **Part 4: Devolution of Policing and Justice**

Devolution of policing and justice was achieved on 12 April 2010. As described above, the process leading to devolution included engaging the mechanisms set out in this legislation. As such, this section of the legislation can be seen as having fulfilled the objectives for which it was intended.

#### **Part 5: Miscellaneous**

Part 5 of the Act made various miscellaneous provisions. In the main, these were in fields which reverted to being under the control of the Northern Ireland Assembly and Executive following the restoration of devolution. Of those that remain within the competence of the UK Government:

Section 21 – Arms decommissioning: extension of amnesty period – the legislation extended the amnesty for the decommissioning of weapons. During this period the Ulster Volunteer Force/ Red Hand Commando, South East Antrim Brigade, Ulster Defence Association, Official IRA and the Irish National Liberation Army all decommissioned weapons. Therefore the legislation can be seen as having fulfilled its objectives in this regard.

#### **Conclusion**

As set out in detail in the ‘Preliminary Assessment’ section of this Memorandum, this legislation can be regarded as having achieved the primary aims for which it was intended.

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<sup>20</sup>Section 11 of the 2006 Act provided that the disapplication of Part IV of PPERA in Northern Ireland would end on 31 October 2007.

### Annex A: Size and Comprehensiveness of Electoral Register in Northern Ireland (2002-2009)

Date	Size of the electorate	Change	% Change	% of eligible electorate on register	Change
01/12/2002	<b>1,072,425</b>	/	/	/	/
02/02/2004*	<b>1,069,160</b>	-3,265	-0.3	<b>87</b>	/
01/12/2004	<b>1,047,601</b>	-21,559	-2	<b>83.1</b>	-3.9
01/12/2005	<b>1,157,052**</b>	+109,451	+10.4	<b>91.7**</b>	+8.6
01/12/2006	<b>1,075,116</b>	-81,936	-7.1	<b>80.9</b>	-10.8
03/12/2007	<b>1,125,979</b>	+50,863	+4.7	<b>83.5</b>	+2.6
01/12/2008	<b>1,142,547</b>	+16,568	+1.5	<b>83.4</b>	-0.1
01/12/2009	<b>1,170,336</b>	+27,789	+2.4	<b>85.2</b>	+1.8
01/12/2010	<b>1,202,200</b>	+31,864	+2.7	<b>86.7</b>	+1.5

\*The 2003 annual canvass was postponed until February 2004 due to the timing of the Assembly election in 2003.

\*\*This figure includes electors who were 'carried forward' from the 2004 register following the Electoral Registration (Northern Ireland) Act 2005 (c.1).

### 3. The Northern Ireland Act 2006

#### Background

The Northern Ireland Act 1998 enshrined in legislation the fundamental principles of the Belfast Agreement and made provision for the institutions necessary to deliver them. These comprised a devolved Northern Ireland Assembly and Executive Committee, a North-South Ministerial Council and British-Irish Council and new Equality and Human Rights Commissions for Northern Ireland.

These new institutions were established on 2 December 1999. However, following a breakdown in trust between the Northern Ireland political parties, devolution was suspended in October 2002.

Two main issues required resolution in order for progress to be made – the need for support for policing across the whole community in Northern Ireland, and support for power sharing and the political institutions.

#### Detail

To achieve the latter objective the Northern Ireland Act 2006 recalled Members of the Northern Ireland Assembly to sit in a non-legislative fixed term Assembly, which consisted of 108 members. Its focus was to provide a forum for the parties to begin preparations for devolved government and a fully restored Assembly. It set a deadline of 24 November 2006 for the parties to have made sufficient progress to allow for devolution to finally be restored.

#### Post-Legislative Scrutiny

The Assembly met on 15 May 2006 and began preparations to achieve devolved government by 24 November. Having the parties engage within the Assembly provided the impetus for the multi-party talks convened by the British and Irish Governments at St Andrews in October 2006. The outcome of those talks led to the St Andrews Agreement and the Northern Ireland (St Andrews Agreement) Act 2006, which set out further conditions and processes under which devolved government would later be restored. The Northern Ireland Act 2006 was repealed in its entirety by the Northern Ireland (St Andrews Agreement) Act 2006 which set a new

target date for full devolution and provided for a Transitional Assembly to replace the Northern Ireland 2006 Act Assembly.

Overall, the Northern Ireland Act 2006 did not meet the primary objective of restoring devolution by 24 November 2006; however it did provide a forum for the parties to engage in preparations for devolution which led to the St Andrews Agreement in October 2007 and ultimately full devolution in May 2007.

#### **4. The Northern Ireland (St Andrews Agreement) Act 2006**

##### **Introduction**

The Northern Ireland (St Andrews Agreement) Act 2006 received Royal Assent on 22 November 2006. The purpose of this Act was to give legislative effect to particular elements of the St Andrews Agreement which was reached on 13 October 2006 following negotiations involving the then Government, the Irish Government and the Northern Ireland political parties.

##### **Background**

The Northern Ireland Act 1998 enshrined in legislation the fundamental principles of the Belfast Agreement and made provision for the institutions necessary to deliver them; a devolved Northern Ireland Assembly and Executive Committee, both North-South and British-Irish collaborative institutions and new Equality and Human Rights Commissions for Northern Ireland.

These new institutions came into being on 2 December 1999. However, following a breakdown in trust between the Northern Ireland political parties, devolution was suspended in October 2002.

Two main issues required resolution in order for progress to be made – the need for support for policing and the rule of law across the whole community, and support for power sharing and the political institutions. To achieve the latter the Northern Ireland Act 2006 (subsequently repealed) recalled Members of the Northern Ireland Assembly to sit in a “2006 Assembly” whose focus was to provide a forum for the parties to begin preparations for devolved government. It set a deadline of 24 November 2006 for the parties to have made sufficient progress to allow for devolution to finally be restored.

The main purpose of the Northern Ireland (St Andrews Agreement) Act 2006 was to deliver the legislative aspects of the St Andrews Agreement of 13 October 2006, building on the Northern Ireland Act 2006 by creating a further ‘Transitional Assembly’ to sit from 24 November 2006 and by setting out arrangements to facilitate a return to devolved government within Northern Ireland. In so doing, this Act also repealed the Northern Ireland Act 2006.

##### **Objectives**

The purpose of this Act was to reflect the St Andrews Agreement of 13 October 2006. As such it had four main objectives:

##### **To restore devolved government**

Part 1 of the Act concerned the restoration of the Northern Ireland Assembly in line with the timeline that had been agreed at St Andrews. It was intended that the existing Assembly would reconvene on 24 November to allow the Democratic Unionist Party and Sinn Féin, as the two largest parties, to indicate who the First Minister and deputy First Minister would be in the future Assembly.

Following this, the Act provided for a new ‘Transitional Assembly’ to operate until 26 March 2007 – the target date for the restoration of the Northern Ireland Assembly.

The Act provided for the election of the next Assembly on 7 March 2007. To facilitate stability during the intervening period, the requirement for a by-election to be held in respect of any Assembly vacancy between the passing of the Act and the election was disappplied. In addition to this the Act adjusted the rules for the remuneration of Assembly members to take account of the election.

Part 1 also established in statute the consequences of compliance or non-compliance with the St Andrews Agreement timetable. The Act provided that if a new Assembly had not been elected and all Ministerial posts filled by 26 March 2007 the Transitional Assembly would be dissolved and direct rule from Westminster reintroduced.

### **Changes to the operation of devolved institutions**

The second objective was to amend the Northern Ireland Act 1998 to bring the operation of the Executive in Northern Ireland into line with the terms of the St Andrews Agreement. Part 2 of the Act introduced a new Ministerial Code to reflect the desire of the political parties that safeguards should be in place to ensure that all sections of the community could participate and work together successfully in the operation of devolved government. It also included arrangements for changes to the Code and the process by which important decisions could be referred to the Executive Committee.

The twin pillars of power sharing and the rule of law formed the basis of the St Andrews Agreement and the Act aimed to reflect this by inserting these principles into the pledge of office that all Northern Ireland Ministers must take before assuming their responsibilities.

Part 2 also built on the principles of power-sharing Government and North-South, East-West co-operation originally set out in the Good Friday Agreement. It created new arrangements for the appointment of the First and deputy First Ministers who were now to be nominated by the largest parties in each of the largest designations in the Assembly, or by the largest and second largest parties in the Assembly if those parties were not of the largest and second-largest designations respectively. It also amended the provisions of the 1998 Act that dealt with the North-South Ministerial Council and the British-Irish Council to provide for the Minister responsible for the policy area being discussed at a given meeting of either Council to attend.

The St Andrews Agreement also proposed a target date of May 2008 for the devolution of policing and justice powers to the restored Assembly. The Act therefore required the Assembly to report to the then Secretary of State before 27 March 2008 on progress towards the devolution of policing and justice powers.

Finally, Part 2 of the Act introduced a statutory duty on the Executive Committee to adopt strategies relating to; the Irish and Ulster Scots languages; Ulster Scots heritage and culture; and poverty, social exclusion and patterns of deprivation. This reflected the elements of the Agreement that focused on Human Rights, Equality and related issues.

### **District Policing Partnerships**

The St Andrews Agreement recognised the right of every political party in Northern Ireland to hold the police to account. Part 3 of the Act was intended to implement this by making specific provision in relation to District Policing Partnerships (DPPs) – in particular enabling DPPs to be reconstituted to include Sinn Féin membership as necessary.

### **Education**

Part 3 of the Act also provided for an amendment to the Education (Northern Ireland) Order 2006 to defer the commencement of provisions in that Order to abolish academic selection to post-primary schools until 28 March 2007 – shortly after the target date for the restoration of

devolution. The purpose of this was to allow the devolved Assembly and Executive to make a decision as to whether academic selection in Northern Ireland should be abolished.

### **Implementation**

The Draft Bill was laid before Parliament on 6 November 2006 and debated on 21 November 2006 (House of Commons) and 22 November 2006 (House of Lords).

Powers in relation to preparations for the restoration of devolved government (Section 1), compliance or non-compliance with the St Andrews Agreement (Section 2), the disapplication of by-election provisions for vacancies arising before the next Assembly election (Section 3(2) and (3)), the amendments to Education (Section 21(1) and (3) to (5)) Supplemental provisions (Part 4) and the Transitional Assembly (Schedule 1) came into force on Royal Assent on 22 November 2006.

Provisions concerning the remuneration of members of the Northern Ireland Assembly were commenced on 26 January 2007.

Powers in relation to the reconstitution of DPPs (section 20(1) and Schedule 8) were commenced on 4 September 2007.

Schedules 2 to 4 which dealt with the consequences of compliance or non-compliance with the St Andrews Agreement timetable would only have come into force in the circumstances specified in section 2- Schedules 2 and 4 in the event of compliance and Schedule 3 in the event of a failure to comply. The Northern Ireland Assembly was restored on 26 March 2007 after the then Secretary of State signed a restoration order under section 2(2). However, a power sharing Executive was not formed by the end of 26 March 2007, and the Secretary of State would therefore have been under a duty in accordance with section 2(3) to make an order revoking restoration and Schedule 3 would have come into force. To avoid this The Northern Ireland (St Andrews Agreement) Act 2007 amended the 2006 Act to change the deadline for full restoration from 26 March to 8 May 2007. As a result Schedule 3 has not been commenced and Schedule 4 came into force on 10 May 2007.

Section 3(1) – Election of the next Northern Ireland Assembly to be in March 2007 came into force on 26 January 2007.

Part 2 (amendment of the Northern Ireland Act 1998 etc) including Schedules 5 to 7 came into force on 8 May 2007 following an amendment made by the Northern Ireland (St Andrews Agreement) Act 2007.

Section 20(2) and Schedule 9 (district policing partnerships: Belfast sub-groups) were commenced by the Police (Northern Ireland) Act 2003 (Commencement No.3) Order 2007 on 4 September 2007.

Finally, section 21(2) – different selection criteria for different descriptions of school came into force in conjunction with Schedule 4 on 10 May 2007.

### **Secondary Legislation**

Two pieces of secondary legislation were made under this Act. These were:

- The Northern Ireland (St Andrews Agreement) Act 2006 (Commencement No.1) Order 2007 which commenced section 4 of the 2006 Act bringing provisions relating to the remuneration of members of the Northern Ireland Assembly into force.
- The Northern Ireland (St Andrews Agreement) Act 2006 (Commencement No.2) Order 2007 which commenced the provisions relating to the reconstitution of DPPs in Schedule 8 of the 2006 Act.



## **Legal Issues**

To date the powers created by the Northern Ireland (St Andrews Agreement) Act 2006 have not been subject to any legal challenges.

## **Other Reviews**

We are not aware of any other formal review of this legislation.

## **Preliminary Assessment of the Act/Effect**

Taking each of the main headings of the Act in turn, this section seeks to provide an assessment of how successfully the main powers have been introduced and used.

## **Preparations for the Restoration of Devolved Government**

Following the introduction of these powers on 22 November 2006, the Transitional Assembly created under section 1 of this Act met on 24 November 2006 to consider the creation of an Executive but none was formed. Sinn Féin held an Ard Fheis on 28 January 2007 in which the party gave support for the first time to the Police Service of Northern Ireland dependent on the restoration of devolved government. The Independent Monitoring Commission published two reports in early 2007 indicating that the IRA had moved away from criminal activity, and the British and Irish Governments facilitated talks designed to ensure the creation of an Executive on 26 March.

On 24 March 2007 the Democratic Unionist Party Executive agreed a motion which allowed the party to enter into the Executive after a further six weeks, to give Sinn Fein further time to illustrate their support for the police and courts service. The motion was interpreted as an attempt to build support for power sharing within the party. On 26 March 2007 the then Secretary of State announced that as long as the leaders of the DUP and Sinn Fein held a meeting to agree a date for devolution, he was prepared to introduce emergency legislation to allow the Assembly to continue. This meeting took place on 26 March, and both parties agreed to enter an Executive on 8 May.

Elections were held for the Assembly on 7 March 2007. The two largest parties in the Assembly were the Democratic Unionist Party and Sinn Fein. The leaders of both parties agreed to form an Executive on 8 May 2007 in a meeting on 26 March 2007. However under section 2 of the 2006 Act if a power sharing Executive was not formed, then the Assembly would be dissolved immediately.

The Northern Ireland (St Andrews Agreement) Act 2007, which received Royal Assent on 27 March 2007, therefore extended the deadline for the restoration of the Northern Ireland Assembly to the 8 May 2007. This prevented the immediate dissolution of the Assembly because an agreement had been reached and in their amended form the provisions included in Part 1 of the 2006 Act successfully provided for the restoration of devolved government in Northern Ireland.

## **Amendments to the Northern Ireland Act 1998**

### **Ministerial Code**

Paragraphs 4 and 5 of Schedule 1 to the 2006 Act required the Transitional Assembly to agree before 24 March 2007 a Ministerial Code and Standing Orders for use in the restored Northern Ireland Assembly, after which point, if agreement had not been reached, the Secretary of State would impose a Code or Standing Orders.

The Ministerial Code was considered by the Committee on the Programme for Government on 27 November 2006 and approved by the Transitional Assembly on 20 March 2007. However

agreement was not reached on amended Standing Orders for the Northern Ireland Assembly. Accordingly, the then Secretary of State imposed a set of Standing Orders on 25 March 2007. Under the terms of the Northern Ireland (St Andrews Agreement) Act 2007 these Standing Orders became the Ministerial Code and Standing Orders of the Northern Ireland Assembly when it was restored on 8 May 2007. This was to prevent the newly restored Assembly from being faced with immediate paralysis.

The Standing Orders for the Northern Ireland Assembly have been amended on 34 occasions and over half of the original Standing Orders have been changed or adapted at least once. The bulk of their authorship now lies with the Assembly.

In practice the Ministerial Code has formed an effective framework for the conduct of Ministers in the Northern Ireland Assembly. A minor amendment was made by the First and deputy First Ministers in February 2009 to take account of new provisions in the Financial Assistance Act (Northern Ireland) 2009 passed by the Assembly to deal with instances of emergency financial provisions but otherwise the Code has remained unchanged. The Committee on Standards and Privileges conducted a long review into breaches of the Members' Code of Conduct on 10 June 2009 which revealed that the public were concerned that no mechanisms existed to deal with alleged breaches of the Ministerial Code. These findings remain under review.

The Pledge of Office was read into the record on 8 May 2007 and all Ministers took the pledge on that day.

### **Power to refer Ministerial Decision to Executive Committee**

Part 2 of the Act included provision that required Ministers to put certain matters to the Executive Committee for discussion and agreement. This was intended to ensure that Ministers could not take decisions which might be contentious or cross cutting without Executive Committee approval. During the passage of the Act the then Secretary of State clarified that any decision which was taken in breach of the Ministerial Code would be deemed invalid.

These provisions have been breached on one occasion since the passage of the Act. In October 2007 the then Social Development Minister, Margaret Ritchie, opted to cut funding to the Conflict Transformation Initiative when the Ulster Defence Association failed to meet her 60 day ultimatum to end criminality and begin decommissioning its weapons. A member of staff at the CTI sought a Judicial Review on the grounds that she had not complied with the requirements of this Act.

Mr Justice Morgan ruled in the appellant's favour. The Minister had received legal advice on her decision to withdraw funding, but had not forwarded it to the First Minister and deputy First Minister or Finance Minister in sufficient time for them to consider it. By proceeding with the announcement that funding would be cut on 16 October 2007 the judge ruled that she had acted unlawfully by breaching the Ministerial Code. He made the order quashing the ministerial decision to cease funding in April 2009.

### **Appointment of First and deputy First Minister and Northern Ireland Ministers**

The provisions contained in section 8 of the Act amended the framework for the appointment of the First and deputy First Ministers as set out in the Northern Ireland Act 1998. The procedures set out in the Act led to the appointment of Ian Paisley and Martin McGuinness as the First and deputy First Minister on 8 May 2007. They were also implemented in 5 June 2008 after Ian Paisley stood down as First Minister on 4 March to appoint Peter Robinson as First Minister and reappoint Martin McGuinness as deputy First Minister. These provisions can therefore be said to have had the effect intended by the legislation, although it should be noted that the system implemented has not enjoyed universal support amongst the Northern Ireland political parties, with some calls at various points for a return to the arrangements set out in the Northern Ireland Act 1998.

## **Committees**

The Statutory Committee for the Office of the First Minister and deputy First Minister was established to advise and assist the FM and dFM on matters within their responsibilities as Ministers. The Committee includes representatives from all of the main Northern Ireland Assembly parties. The Assembly approved a motion on 12 June 2007 to change the name of the committee from the Committee of the Centre to Committee for the Office of the First Minister and deputy First Minister. Since then the Committee has met 133 times and considered a wide range of issues - particularly the consideration and development of legislation.

The Standing Committee to review the functioning of Assembly and Executive Committee was renamed as the Assembly and Executive Review Committee under Standing Order 59. This Committee is also comprised of representatives from all of the main Northern Ireland Assembly parties. Since 22 May 2007 there have been 89 meetings.

## **North-South Ministerial Council**

The North-South Ministerial Council was originally established under the Good Friday Agreement to develop consultation, co-operation and action within the island of Ireland on matters of mutual interest and within the competence of the Administrations, North and South. The purpose of the provisions contained within this Act was to make a commitment to Northern Ireland Ministerial engagement and involvement with the Council.

During suspension, an Exchange of Notes between the British and Irish Governments on 19 November 2002 provided for decisions and actions relating to the implementation bodies created under the Good Friday Agreement and Tourism Ireland Limited or their respective functions to be taken by the two Governments. Since it was restored in 2007 the NSMC has held regular plenary meetings which were all attended by Ministers from both the Northern Ireland Executive and the Irish Government. The NSMC also has 12 agreed areas or sectors which hold regular sectoral meetings attended by the relevant Ministers from the devolved administration.

## **British-Irish Council**

To date the Council has met 17 times at summit level, most recently in Dublin on 13 January 2012. Ministerial meetings have also regularly taken place on the sectoral work areas of the BIC. The First and deputy First Ministers as well as key members of the Northern Ireland Executive have been in attendance at every summit since 2007.

## **Strategies relating to Irish and Ulster Scots**

This Act placed a duty on the Executive to adopt a strategy in respect of Irish language and Ulster Scots. These strategies have yet to be published, although the recently appointed Minister for Culture, Arts and Leisure has indicated that she expects to make more substantive progress on language issues. The Agreement at Hillsborough Castle of 5 February 2010 included a commitment to return to issues outstanding from the St Andrews Agreement, by inference including these areas.

## **Strategies relating to poverty and social inclusion**

In November 2006 'Lifetime Opportunities' was launched by the then Government as the anti-poverty and social inclusion strategy for Northern Ireland, under direct rule. Any updates or revisions of policies in this area are now essentially matters for the devolved administration. The Agreement at Hillsborough Castle of 5 February 2010 included a commitment to return to issues outstanding from the St Andrews Agreement, by inference including these areas.

## **Report on progress towards policing and justice matters**

The report on progress towards the devolution of policing and criminal justice envisaged by section 18 was published by the Assembly and Executive Review Committee on 11 March 2008. The report contained clear decisions about structures and about which powers would be devolved. It also called on political parties to meet to discuss outstanding issues to complete devolution. The publication of the report fulfilled the statutory obligation contained within this Act. Agreement on policing and justice was not reached until 5 February 2010.

## **Education**

The provisions relating to education delayed the abolition of academic selection until after the restoration of the Northern Ireland Assembly. This is now a devolved matter and the Northern Ireland parties continue to seek consensus on the way forward.

## **Reconstitution of District Policing Partnerships**

The Northern Ireland (St Andrews Agreement) Act 2006 (Commencement No.2) Order 2007 commenced the provisions relating to the reconstitution of DPPs in Schedule 8 to the 2006 Act such that they came into force on 4 September 2007. Under these provisions the political condition was met in relation to a DPP if the political members of the DPP reflect, so far as is practicable, the balance of parties prevailing among the members of the relevant district council on 4 September 2007. On 8 October 2007 Sinn Féin nominees first took up their places on a DPP. In November 2008 a local Councillor became the first Sinn Féin Chair of the East Belfast Policing Partnership.

## **Conclusion**

The main purpose of this Act was to set a framework under which devolved government in Northern Ireland could be restored. Further primary legislation was required to amend the timescales but in essence the legislative provisions in the 2006 Act successfully provided for the restoration of the Northern Ireland Assembly.

The secondary aim of the Act was to amend the Northern Ireland Act 1998 following the St Andrews Agreement. Provisions included changes to the Ministerial Code and the appointment of the First Minister and deputy First Minister, and have operated as intended by the legislation. The Committees and Councils referred to in Part 2 of the Act have also operated successfully with engagement from Northern Ireland Ministers. The provisions in the legislation relating to strategies for Irish, Ulster Scots, poverty and social inclusion remain to be fully implemented.

Finally, the Act provided for the substantial reconstitution of DPPs in Northern Ireland which has been a major factor in building trust in and support for the Police Service of Northern Ireland.



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