

NORTHERN IRELAND BUSINESS AND LEGISLATION

HC Factsheets – L No 8

(Previously Factsheet 15)

Revised July 2000

From the establishment of a devolved Parliament in Northern Ireland in 1921 up to 1972, legislation on most major domestic issues for Northern Ireland was made in the form of Acts of the Northern Ireland Parliament. In 1972, however, that Parliament was suspended, and direct rule from Westminster was substituted. The last Act of the Northern Ireland Parliament was the Agriculture (Abolition of County Committees) Act (NI) 1972, which received the Royal Assent on 28 March 1972. There have subsequently been three devolved Assemblies in Northern Ireland since 1972: in 1974, 1982-86, and the current Assembly, which was established in 1998 under the terms of the Northern Ireland Act 1998. The Assembly of 1974 had legislative powers; the Assembly of 1982-86 had no legislative responsibilities. The New Northern Ireland Assembly had no legislative powers prior to devolution on 2 December 1999. Following devolution, legislative power in most areas was transferred from Westminster to the Assembly and executive power to its power sharing Executive.

LEGISLATIVE PRACTICE BEFORE DEVOLUTION 1999

Since 1972 the vast majority of Northern Ireland's primary legislation was carried into effect by means of Orders in Council and direct rule continued by Order for one year at a time. Orders in Council were laid before parliament under the affirmative procedure (see *Factsheet* L7) under Schedule 1, para 1 of the Northern Ireland Act 1974 (Schedule 1, para 2(1), during the temporary suspension of the Northern Ireland Assembly). The Northern Ireland Act 1974 also made provision for urgent or emergency Orders to come into effect immediately subject to approval of parliament within 40 days.

Orders in Council were often preceded by a proposal for a draft Order in Council, which were sometimes accompanied by an explanatory document. This was effectively a consultative stage, which gave interested parties the opportunity to comment on the proposed legislation before it was laid before parliament. Following any consultation, the next stage was the laying of a draft Order before parliament for subsequent approval by both the House of Commons and House of Lords. Orders could be considered on the floor of the House, in a Standing Committee on Delegated Legislation or by the Northern Ireland Grand Committee.

From the late seventies, certain Acts relating to Great Britain have also contained clauses providing that legislation for Northern Ireland parallel to the whole Act (or part of it) might be issued under. Such legislation has been subject to the negative resolution procedure (see *Factsheet* L7) rather than

the affirmative procedure normally provided for Orders in Council. These 'parity orders' as they were termed, were given UK SI numbers. In addition several Acts relating to Northern Ireland were passed as a result of Private Members' Bills, e.g. the Education (Northern Ireland) Act 1978.

DEVOLUTION AND THE NORTHERN IRELAND ASSEMBLY

The new Northern Ireland Assembly was established by the Northern Ireland Act 1998. The Act implemented provisions of the Belfast Agreement, also known as the Good Friday Agreement, which was entered into on Friday 10 April 1998 (Cm 3883). One hundred and eight Members were elected from the 18 existing Westminster constituencies. It first met on 1 July 1998, but had no legislative powers prior to devolution on 2 December 1999. Following devolution, legislative power in most areas was transferred from Westminster to the Assembly and executive power to its power sharing Executive.

The Northern Ireland Act 1998 not only established a legislative Assembly, it also provided for the creation of an Executive with a First Minister, Deputy First Minister and ten ministers appointed under the d'Hondt procedure. The Act also provided for the establishment of new institutions including a North-South Ministerial Council, which was required under the Belfast Agreement. Areas devolved to the Assembly and Executive include education, social services, the arts and agriculture. These subjects broadly correspond with the areas devolved to Scotland and Wales. The Assembly is able to pass primary legislation in devolved areas, and the first Act to be passed was the Financial Assistance to Political Parties Act (Northern Ireland) 2000 c.1.

EXCEPTED AND RESERVED MATTERS

However, under the terms of the Northern Ireland Act 1998, certain powers are retained by the Secretary of State for Northern Ireland and are not devolved matters. These include constitutional and security issues as they relate to Northern Ireland, law and order, policing and relations with the European Union. Legislation in non-devolved or excepted matters will continue to be made by the Westminster parliament under the Northern Ireland Act 1998 in the form of Orders in Council, Acts and Statutory Instruments. Reserved matters, which include criminal law and civil defence, can be transferred to Northern Ireland at a future date, but excepted matters remain permanently at Westminster. The legislative framework for non-devolved matters is set out in the Northern Ireland Act, but it is similar, in part, to the procedure used prior to devolution in December 1999.

The Assembly was temporarily suspended on 11 February 2000. The Northern Ireland Act 2000 completed all its stages in Parliament in seven days and provided for the suspension of the Assembly, the Executive and North South bodies. Northern Ireland returned to direct rule with executive responsibility reverting to the Secretary of State for Northern Ireland. Devolved government was restored by Order, which came into effect at midnight on 29 May 2000.

NORTHERN IRELAND BUSINESS IN THE HOUSE OF COMMONS

There remain eighteen Members of Parliament representing Northern Irish constituencies at Westminster. The UK Parliament retains the right to debate Northern Irish matters and legislate in those areas which are not devolved to the Northern Ireland Assembly. Northern Ireland business in the House of Commons is conducted in a number of ways:

NORTHERN IRELAND QUESTIONS

Oral questions to the Secretary of State and Northern Ireland Ministers occur approximately every fourth Wednesday. Questions to the Northern Ireland Office may be - and are - asked by Members with constituencies anywhere in the United Kingdom.

Northern Ireland Grand Committee functions

Oral questions

Short debates

Ministerial statements

Bills referred for consideration in relation to their principle

Other NI Legislative proposals

Delegated legislation

Adjournment debates

Another of the main ways in which Northern Irish business is discussed in the House of Commons is through the work of the Northern Ireland Grand Committee¹. The Committee consists of all 18 Members representing constituencies in Northern Ireland and not more than 25 other Members nominated by the Committee of Selection. The quorum is 10.

The Grand Committee is able to sit outside Westminster in Northern Ireland on two occasions each session. Times of sittings away from Westminster are specified when a motion (made by a Minister) for the Committee to sit outside Westminster is made.

The Committee can take oral questions – this is in addition to that in the House. Only members of the Committee may table questions, with ten sitting days notice, with no more than one question per Member per specified day for taking of questions. All questions tabled must specify that they are for answer in the Grand Committee. On a Committee Question Time day, questions are taken at the beginning of the sitting and will last 30 minutes. There is no system of Written Questions in the Grand Committee, but any oral questions not reached are printed as written replies in the Official Report of the Committee's sitting.

SHORT DEBATES

Short debates lasting 30 minutes, on a subject relating to Northern Ireland, may be raised by members of the Committee with ten sitting days notice. These debates will begin at the commencement of the sittings, or if this is also a question day, after questions. During a short debate, the Member who raised the subject and the replying minister may speak for 5 minutes: other Members of the Committee for 3 minutes. The Chairman has the power to order Members to resume their seats if the time limits are exceeded.

¹ The term Grand is of French origin and is a relic of the language used at court following the Norman Conquest. It is used in the parliamentary context to designate a large committee.

MINISTERIAL STATEMENTS

A government minister can make statements in the Grand Committee on a matter relating to Northern Ireland, whether a member of the House or not. This provision includes the Prime Minister and the Deputy Prime Minister. The Chairman has the discretion as to the length of proceedings. Statements may be made either at the commencement of the sitting, or (a) if a question day, after questions (b) if a short debate day, after the short debate.

BILLS

Bills relating exclusively to Northern Ireland can be referred to the Northern Ireland Grand Committee for consideration of its principle prior to its second reading. Such a motion may be made by a Minister (or in the case of a Private Members' Bill, by the Member in charge of the Bill). The Committee will consider the Bill 'in relation to its principle' for a maximum of two and half-hours over one or more days; and if approved the House of Commons will formally give the Bill its second reading.

The Committee may also consider a Bill at a later date for up to a further one and half-hours on one or more days after its report stage. This, in effect constitutes its third reading debate, although the Commons will again give a formal third reading to the Bill.

DELEGATED LEGISLATION

The Northern Ireland Grand Committee may also consider statutory instruments (see *Factsheet* No L7) for up to two and a half- hours, on a motion that an SI (or draft) be revoked, annulled, not made, approved, to take note or that an Order in Council be not submitted to Her Majesty in Council. A Minister of the Crown, without notice can extend the time limit to three hours.

DEBATES

The Committee can debate specified matters, or legislative proposals that relate exclusively to Northern Ireland. In this case, a legislative proposal means a proposal for a draft Order in Council relating exclusively to Northern Ireland.

SITTINGS

The Northern Ireland Grand Committee has in recent years, met up to six times each session, including sittings away from Westminster (no more than two sittings each session). Sittings of the Grand Committee may be determined by a motion (made by a Minister), to sit on specified days and at specified times. In practice, the Committee will usually meet at 10.30 am or 2.30 pm

Details of the times, location, dates of sittings and agenda of the Grand Committee can be found in the Northern Ireland Committee Order Book, which Members may obtain from the Vote Office. These details are also published in the Standing Committee section of the *Weekly Information Bulletin*.

SELECT COMMITTEE

The Northern Ireland Affairs Select Committee is appointed by the House and has a maximum of 13 Members with a quorum of 4. The Committee is empowered to examine the expenditure, administration and policy of the Northern Ireland Office and the administration of the Crown Solicitor's Office. The Committee can take evidence in Northern Ireland, and in recent years has done so in Belfast and Londonderry.

TRACING ORDERS AND IRISH/NORTHERN IRISH ACTS

All Northern Ireland Orders in Council for the session with dates of their debate are cumulatively listed in each issue of the *Weekly Information Bulletin*.

The Stationery Office publish a *Chronological Table of the Statutes* and an *Index to the Statutes* for Northern Ireland. The *Chronological Table*, which is analogous to that for the UK, is in four parts - the Statutes of the Irish Parliament, 1310-1800 (which affect what is now Northern Ireland); the Statutes of English Parliaments 1226-1801 which similarly refer; the Statutes of the Union Parliament, 1801-; and the Statutes of the Northern Ireland Parliament 1921-72, and Statutory Instruments since that date, as well as the Measures of the 1974 Assembly. The *Index to the Statutes* cross-refers from subject to those Acts and Statutory Instruments still in force, in all four categories. For further details of this process, see *Factsheet* No L12.

Recent Northern Ireland legislation is available on the Internet from the HMSO website

(<http://www.northernireland-legislation.hmso.gov.uk>).

Orders in Council and draft Orders are available from 1997. Statutory Rules and Orders are available from 1998.

Documentation from the Northern Ireland Assembly 1998 can be accessed from its homepage (<http://www.ni-assembly.gov.uk/>).

APPENDIX**NORTHERN IRELAND GRAND COMMITTEE****TIMES (MAXIMUM)**

Commence	Specified by a motion moved by a minister
Questions	30 minutes
Short Debate	30 minutes
Statements	Chairman's discretion
Principle of Bill	2 nd Reading: 2 hours 30 minutes or more if extended by Motion by member of Government
Interruption of business by Chairman	1pm (unless otherwise specified in advance by Order of the House)
Adjournment debate	30 minutes

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Factsheet L8

Northern Ireland: Business and Legislation

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