Draft Order in Council laid before Parliament under the Northern Ireland Act 1974, Schedule 1 paragraph 1(4)(a), for approval by resolution of each House of Parliament.

DRAFT STATUTORY INSTRUMENTS

1999 No. (N.I.)

NORTHERN IRELAND

The Departments (Northern Ireland) Order 1999

Made - - - -
Coming into operation in accordance with Article 1(2) and (3)

At the Court at , the day of 1999

Present,

The Queen's Most Excellent Majesty in Council

Whereas a draft of this Order has been approved by a resolution of each House of Parliament:

Now, therefore, Her Majesty, in exercise of the powers conferred by paragraph 1 of Schedule 1 to the Northern Ireland Act 1974 and of all other powers enabling Her in that behalf, is pleased, by and with the advice of Her Privy Council, to order, and it is hereby ordered, as follows:—

Title and commencement

1.—(1) This Order may be cited as the Departments (Northern Ireland) Order 1999.

(2) Subject to paragraph (3), this Order shall come into operation on such day as the Secretary of State may by order appoint.

(3) Article 8 and the repeal by this Order of section 4 of the Ministries Act (Northern Ireland) 1944 shall come into operation on the day following the day appointed by an Order in Council under section 3 of the Northern Ireland Act 1998 for the commencement of Parts II and III of that Act.

Interpretation

2.—(1) The Interpretation Act (Northern Ireland) 1954 shall apply to Article 1 and the following provisions of this Order as it applies to a Measure of the Northern Ireland Assembly.

(2) In this Order—

"department" means a Northern Ireland department;

"Minister", in relation to a department, means—

(a) in the case of the Office of the First Minister and deputy First Minister, the First Minister and the deputy First Minister acting jointly;

(b) in the case of any other department, the Minister in charge of that department;

"statutory provision" has the meaning assigned to it by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

(3) References in this Order to a senior officer of a department are references to a person who is employed in that department and is—

(a) a member of the Northern Ireland senior civil service; or

(b) a member of the Northern Ireland civil service designated by the department as a senior officer for the purposes of this Order.

(4) If, and to the extent that, a determination under section 19 of the Northern Ireland Act 1998 so provides, the functions exercisable under this Order by a senior officer of a department shall also be exercisable by a junior Minister; but nothing in this Order authorises a junior Minister to exercise functions otherwise than in accordance with the terms of such a determination.

The Northern Ireland departments

3.—(1) There shall be established departments to be known as—

(a) the Office of the First Minister and deputy First Minister;

(b) the Department of Culture, Arts and Leisure;

(c) the Department of Higher and Further Education, Training and Employment;

(d) the Department for Regional Development; and

(e) the Department for Social Development.

(2) The Office of the First Minister and deputy First Minister shall be in the charge of the First Minister and the deputy First Minister acting jointly.

(3) The departments in existence immediately before the coming into operation of this Article shall continue in existence and, subject to paragraphs (4) to (7), shall continue to be known by the same names as immediately before that time.

(4) The Department of Agriculture for Northern Ireland shall be renamed the Department of Agriculture and Rural Development.

(5) The Department of Economic Development shall be renamed the Department of Enterprise, Trade and Investment.

(6) The Department of Health and Social Services for Northern Ireland shall be renamed the Department of Health, Social Services and Public Safety.

(7) Where the words "for Northern Ireland" form part of the name of any other department to which paragraph (3) applies, those words shall be omitted from the name of that department.

(8) Accordingly, as from the coming into operation of this Article, there shall be the departments set out in Schedule 1.

(9) The following provisions of this Order apply in relation to the departments set out in Schedule 1.

Exercise of functions of a department

4.—(1) The functions of a department shall at all times be exercised subject to the direction and control of the Minister.

(2) Without prejudice to the generality of paragraph (1), the Minister may in pursuance of that paragraph—

(a) distribute the business of a department among the officers of the department in such manner as he thinks fit;

(b) by Minute laid before the Assembly assign any specified functions of the department to such officers of the department as he may determine under such designation as he may determine.

(3) Subject to the provisions of this Order, any functions of a department may be exercised by—

(a) the Minister; or

(b) a senior officer of the department.

(4) Subject to paragraph (5), in carrying out its functions a department shall adopt and use the name and seal of the department.

(5) The Minister may authorise the use of a special designation by any officers to whom any functions have been assigned under paragraph (2)(b).

(6) Nothing in this Order affects the operation of any statutory provision or rule of law which authorises or requires any functions of a department to be exercised in a particular manner or by particular persons.

Status of department, etc.

5.—(1) A department shall be a body corporate.

(2) A department shall have the capacity to acquire and hold land for the purposes of its functions.

(3) The expenses of a department shall, to such extent as the Department of Finance and Personnel may determine, be defrayed out of moneys appropriated by Act of the Assembly.

The seal of a department

6.—(1) A department shall have an official seal which shall be officially and judicially noticed.

(2) The application of the seal of a department shall be authenticated by the signature of—

(a) the Minister; or

(b) a senior officer of that department.

Evidence of acts of department

7.—(1) Every document purporting to be issued by a department and—

(a) to be sealed with the seal of the department authenticated as provided by Article 6(2); or

(b) to be signed by the Minister or a senior officer of the department or other officer of the department authorised by the Minister in that behalf,

shall be received in evidence and be deemed to be such a document without further proof, unless the contrary is shown.

(2) A certificate signed by—

(a) the Minister; or

(b) a senior officer of a department,

that a document purporting to be issued by the department is so issued shall be conclusive evidence of the facts so certified.

(3) The Documentary Evidence Act 1868, as amended by the Documentary Evidence Act 1882, shall apply to a department as if—

(a) the department were mentioned in the first column of the Schedule to the Act of 1868 and the Minister or a senior officer of the department were mentioned in the second column of that Schedule;

(b) the regulations referred to in those Acts included any document issued by the department.

Power to transfer or assign functions

8.—(1) The First Minister and deputy First Minister acting jointly may by order—

(a) assign to any department; or

(b) transfer to any department from any other department,

such functions as appear to them to be appropriate for such assignment or transfer.

(2) An order under this Article may make provision—

(a) for the amendment or repeal of any statutory provision;

(b) for the transfer of any assets and liabilities enjoyed or incurred by any department in connection with any functions transferred; (c)for the carrying on and completion by or on behalf of a department of anything commenced by or on behalf of any other department before a transfer of functions takes place;

(d) for changing the name by which a department is to be known;

(e) for the substitution of the name of a department for the name of any other department in any document or legal proceedings issued or commenced before the date on which the transfer of functions or change of name takes place;

(f) for such other incidental, consequential, transitional or supplementary matters as are necessary or expedient for giving full effect to the order.

(3) A certificate issued by a department that any assets or liabilities have been transferred to it by an order under this Article shall be conclusive evidence of that fact.

(4) An order under this Article shall be subject to affirmative resolution.

(5) Nothing in this Order shall affect the continued operation of any Order in Council or order made under section 4 of the Ministries Act (Northern Ireland) 1944 which has effect immediately before the coming into operation of this Article.

(6) In this Article references to a department include references to the Minister of the department.

Consequential amendments and repeals

9.—(1) The statutory provisions specified in Schedule 2 have effect subject to the amendments specified in that Schedule.

(2) The statutory provisions specified in Schedule 3 are hereby repealed to the extent specified in column 3 of that Schedule.

Clerk of the Privy Council