



RESEARCH PAPER 98/77
17 JULY 1998

The Northern Ireland Bill: **Some Legislative and** **Operational Aspects of** **the Assembly**

The *Northern Ireland Bill* [Bill 229, 1997-98] was published on Wednesday 15 July. It is due to have its second reading debate in the Commons on Monday 20 July, and its remaining stages on the Floor of the House over a number of days before the House rises at the end of the month (a programme motion was agreed on Friday 17 July). The Bill implements various aspects of the Belfast (Good Friday) Agreement of 10 April (Cm 3883), including permanent provision for a devolved Assembly (initial provision for which was made in the recent *Northern Ireland (Elections) Act 1998*).

General background to the political situation in Northern Ireland was provided by Research Paper 98/57, *Northern Ireland: political developments since 1972*, 11 May 1998. Briefing on the provisions of the Bill is provided in this present Paper and its companion Paper, RP 98/76, *The Northern Ireland Bill: Implementing the Belfast Agreement*. The latter deals with developments since the Agreement and contains an overview of the provisions of the Bill, including devolution of functions, financial aspects and various equality/human rights issues. This present Paper considers briefly the legislative function of the Assembly and other operational issues.

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Summary of main points

The policy of the *Northern Ireland Bill*, in the context of this Research Paper, is to implement 'Strand One' of the Belfast Agreement by establishing a devolved parliament for Northern Ireland.

This will be the third such devolution scheme for the United Kingdom to be proposed in this new Parliament, following those for Scotland and Wales. Each of the schemes is different, catering for the distinct political and social conditions of the respective territories. In very simple terms, the Northern Ireland scheme can be described a 'Scottish Parliament model', with unique features deemed appropriate and necessary for the particular Northern Ireland situation. These features are mainly designed to ensure that a system of 'local administration' viable and effective in a situation of deep, historical political and social divisions

- by maximising broad consensus in local decision-making and in other actions, and
- by minimising the scope for obstruction and disruption of parliamentary proceedings and executive activities.

Important examples of these mechanisms are the 'power-sharing' aspects of the parliamentary and executive structures, and the requirement for 'cross-community support' for various key decisions and actions.

In general, the companion, main Research Paper (No. 98/76) considers those unique features as part of its overview and analysis of the Agreement process and philosophy. This present Paper concentrates on those internal aspects of the Assembly which are more common to the proposed devolved bodies generally (and to the Scottish Parliament in particular). These include the Assembly's legislative function (its competence and process), and various operational matters such as standing orders, Members' remuneration, privilege and Assembly staffing.

The devolved body is referred to in this Paper as the 'Assembly'. Clause 4(5) provides that, on the commencement of Parts II and III of the Act (on the 'appointed day' by a clause 3 Order in Council), the 'New Northern Ireland Assembly' established by the *Northern Ireland (Elections) Act 1998* shall be known as the 'Northern Ireland Assembly'.

Relevant Research Papers

An index of Research Papers on constitutional and Parliamentary topics is set out in *CAPRI*, edition 4 of which was published earlier this month. It will also be available on the PDVN.

RP 98/76	The <i>Northern Ireland Bill</i> : Implementing the Belfast Agreement
RP98/65	Northern Ireland: The Release of Prisoners under the <i>Northern Ireland (Sentences) Bill</i> Bill 196 of 1997-98
RP 98/62	Th <i>Registration of Political Parties Bill</i> Bill 188 of 1997-98
RP 98/61	Parliamentary Pay and Allowances: Current Rates
RP 98/57	Northern Ireland: political developments since 1972
RP 98/47	Voting Systems - The Government's Proposals (Revised edition)
RP 98/24-27	The <i>Human Rights Bill</i>
RP 98/11	Public Processions in Northern Ireland
RP 98/8	The Barnett formula
RP 98/1-5	The <i>Scotland Bill</i>
RP 97/129, 130, 132	The <i>Government of Wales Bill</i>

CONTENTS

I	Legislating for Northern Ireland	7
	A. Background	7
	B. Recent developments	15
	C. The Bill	17
II	The Northern Ireland Bill	18
	A. Standing Orders	18
	B. Assembly Acts	19
	C. Staff	20
	D. Members' pay and allowances	20
	E. The Assembly and Privilege	21
	F. Order-making powers in the Bill	24

I **Legislating for Northern Ireland**

A. **Background**

Until the imposition of direct rule in early 1972, Northern Ireland had a substantially devolved legislation system under the Stormont Parliament established by the *Government of Ireland Act 1920*. This is neatly explained in the following memorandum prepared for the Standing Advisory Commission on Human Rights (SACHR) in 1993:¹

Under the Act there was established for Northern Ireland a bi-cameral Parliament: a 52-member House of Commons and a 26-member Senate. Northern Ireland was also represented at Westminster by thirteen, later twelve, Members of Parliament. The Northern Ireland Parliament (referred to as Stormont from its location after 1932 just outside Belfast) was given the power by the 1920 Act to legislate for the peace, order and good government of Northern Ireland, subject to the overriding supremacy of the Westminster Parliament (see section 75 of the Act), and subject also to those provisions which withheld certain matters from its legislative competence. Three categories of legislative power can be identified under the Act: excepted, reserved and transferred matters. Excepted matters were substantively outside the competence of the Stormont Parliament and remained within the exclusive competes of Westminster. These matters, found in section 4, were matters of Imperial an national concern, such as the Crown, war and Peace, the armed forces of the Crown, treaties and trade with any place outside Northern Ireland. Reserved matters, which included postal services, certain major taxes and the Supreme Court, some of which had been intended for transfer to an all-Ireland Parliament had one come into existence, were equated with excepted matters an consequently they too remained within Westminster's exclusive competence, for as long as they remained reserved. Transferred matters, which are not listed in the Act, relate to all matters other than those excepted or reserved. The Northern Ireland Parliament, therefore, had the power (subject to the anti-discrimination provision of section 5) to legislate on, for example: welfare law, including health and social services, family law, the criminal law including law and order, local government, education, planning, industrial development and agriculture.

Although section 75 of the Act provided for Westminster's Supremacy, and section 6 limited the Power of the Northern Ireland Parliament to legislate contrary to any Act of the Westminster Parliament passed after 1921, the actual operation of the system of devolution weakened the force of these statutory provisions. By constitutional convention, Westminster did not legislate on any transferred matter without the (half-hearted or full-blooded) consent of the Northern Ireland Government. Northern Ireland matters were not discussed at

¹ B. Hadfield "Legislation for Northern Ireland : Options for reform", Annex D of SACHR Annual Report for 1992-93, HC 739 of 1992-93, pp.113-4

Westminster, nor were excepted or reserved matters discussed at Stormont. The provision in section 6 was by-passed through the Westminster Parliament including, where relevant, in each of its post- 1921 Acts a provision enabling the Stormont Parliament to legislate contrary to its provisions.

Such a system of legislative devolution had two effects. Not only did it allow a particular part of the UK to legislate locally for its own needs and priorities, it also relieved a certain amount of work from the Westminster Parliament, to the extent, at least, of legislation peculiar to Northern Ireland. Following direct rule, this burden fell back upon Westminster. Clearly, after half a century of devolved experience (and the new European dimension), matters could not in practice simply revert to the pre-1920s position, ie. the 'total integration' option. In any case, politically, it was thought necessary for direct rule to be regarded as a temporary, interim arrangement, rather than a conclusive ending of the devolution era. Direct rule was administered by and through the newly created Secretary of State for Northern Ireland and Northern Ireland Office.

This was given legislative effect in the *Northern Ireland (Temporary Provisions) Act 1972*, s1 of which prorogued Stormont and for laws to be made for Northern Ireland by Order in Council "for any purpose for which the Parliament of Northern Ireland has power to make laws." Subject to the provisions of the Act "any Order in Council under this subsection may include the like provisions and shall have the same validity and effect as an Act passed (with any necessary consent) by the Parliament of Northern Ireland ..." (s1(3)). Parliamentary procedures for such Order in Council (basically the affirmative procedure for draft SIs) were set out in para 4 of the Schedule, and *proposals* for an Order were referred for consultation to the Northern Ireland Commission (an advisory body created by para 1 of the Schedule). These provisions expired on 1 January 1974 with the resumption of a measure of devolution under the Northern Ireland Assembly (under the *Northern Ireland Assembly Act 1973* and the *Northern Ireland Constitution Act 1973*),² including legislative devolution by way of 'Measures' of the Assembly (see Part II of the 'Constitution Act').

Measures were to have "the same force and effect an Act of the Parliament of the United Kingdom" (s4, 'Constitution Act'), save for legislation which is discriminatory (s17). The 1973 Act system was described by Hadfield as follows:³

For the purposes of this paper, the important elements of this devolved system (based on a power-sharing Executive) concern the allocation of legislative powers as between the new Northern Ireland Assembly and Westminster. The 1973 Act, like the Government of Ireland Act 1920, contained three categories of legislative power, namely, excepted, reserved and transferred matters. Neither the content nor the rationale of each category, however, was identical to the 1920 Act. First, excepted matters were allocated exclusively to the Westminster Parliament. Excepted matters included both matters of national concern, (for example, the

² S2(4) of the 'Constitution Act'.

³ *Op cit*, p113

Crown, Westminster elections and international relations) and also matters which when previously devolved to a Northern Ireland Parliament had in their exercise proved divisive, (for example, special powers and other provisions for dealing with terrorism, judicial appointments to the lower courts, and elections, including the franchise, in respect of the Northern Ireland Assembly and local authorities). Secondly, reserved matters were matters which were for the time being to be excluded from the normal legislative competence of the Assembly in light of the security situation and these included certain matters within the field of law and order, including the criminal law, penal institutions and the establishment and organisation of the police. The 1973 Act, however, provided that the Assembly might legislate (in exceptional circumstances) on a reserved matter for as long as it remained reserved but only with the consent of the United Kingdom Government. Thirdly, transferred matters included all other matters which were not excepted or reserved. On these matters the Assembly was given an unrestricted competence to legislate, subject to section 17 of the 1973 Act which rendered void legislation which discriminated on the ground of religious belief or political opinion.

The 1973 Act conferred upon Measures (the name given to an Assembly law), subject to section 17, the same force and effect as an Act of the Westminster Parliament. This provision was designed to protect Measures from any questioning (as opposed to interpretation) in the courts other than with regard to Measures believed to be of a discriminatory character in whole or in part.

Thus, by way of summary, excepted matters were allocated to Westminster for it to legislate on such matters by Act. Transferred matters were allocated to the Northern Ireland Assembly for it to legislate on (subject to section 17) by way of Measure. Reserved matters were normally allocated to Westminster Act although the 1973 Act envisaged that, subject to Westminster's scrutiny and approval, the Assembly might exceptionally legislate on such matters. Section 38(1) of the 1973 Act, however, provided that the Westminster Government could utilise the Order in Council rather than Act procedure with regard to two matters, namely, (a) elections (but not the franchise) and boundaries in respect of local authorities in Northern Ireland (an excepted matter) and (b) the constitution of the Police Authority for Northern Ireland (a reserved matter).

When the devolution attempt collapsed in the spring of 1974, direct rule was resumed for an 'interim period' (which has in fact continued ever since⁴) by the *Northern Ireland Act 1974*. This is the system under which legislation is made for Northern Ireland, as Hadfield describes:⁵

⁴ The Assembly which was established by the *Northern Ireland Act 1982*, and elected in October 1982, never took over legislative power prior to its dissolution in June 1986. The 1982 Act provided for a scheme of 'rolling devolution', where functions and powers would be devolved in stages, and all or part of the 'direct rule' legislative arrangements (under sch 1 of the 1974 Act) would be suspended.

⁵ *Op cit*, pp117-8. The arrangements for Northern Ireland legislation are conveniently summarised in *HCIO Factsheet 15* (also available through the PDVN).

The salient elements of the current system of direct rule are as follows. With regard to excepted matters, Westminster continues to legislate for Northern Ireland by way of Act of Parliament, for example the various Northern Ireland (Emergency Provisions) Acts, the Judicature (Northern Ireland) Act 1978 and the Elected Authorities (Northern Ireland) Act 1989. This means that both the principles and the details contained in Bills dealing with excepted matters are debated and scrutinised by both Houses of Parliament prior to their enactment.

As far as transferred matters are concerned, the 1974 Act provides that laws may be made for Northern Ireland by Westminster Order in Council laid subject to Westminster's affirmative procedures. Provision was also made, as under the 1972 Act, for an urgency procedure. All these Orders in Council, which cannot be amended by Parliament, have been given the same status as devolved Measures, namely that, subject to the anti-discrimination section, section 17 of the 1973 Act, they have the same force and effect as an Act of Parliament. This is designed to exclude any judicial review of a direct rule Order in Council, other than under section 17.

As far as reserved matters are concerned, they have been equated with transferred matters because they *potentially* fell within the Assembly's legislative competence. Consequently, the 1974 Act also provides for the Order in Council procedure to be used for reserved matters. **This means that in the transferred and reserved areas laws which are made for the rest of the United Kingdom by Westminster Act of Parliament are made for Northern Ireland (almost invariably) by delegated legislation.**

It should also be noted that section 38(1)(b) of the 1973 Constitution Act, mentioned above, has been amended by the Northern Ireland Act 1982 and now provides that, on the cessation of direct rule, the Government may still continue to use the Order in Council procedure for 'any reserved matter'.

The 1974 Act itself was designed only to make temporary arrangements for Northern Ireland pending yet further discussion concerning its future form of government. Also, the White Paper preceding the 1974 Act made clear the Government's attitude towards legislating for Northern Ireland-

'The Northern Ireland Executive had prepared an extensive programme of future legislation over a wide range of matters devolved to them. To proceed with a programme of this kind entirely by way of Bills of the United Kingdom Parliament is *out of the question.*'

The Northern Ireland Commission provided for under the 1972 Act was not re-established under the 1974 Act.

The Order-making procedure for what would otherwise be regarded as primary legislation for Northern Ireland has been the subject of much criticism, especially from Unionists.⁶ A good analysis of the procedure was prepared for the Standing Advisory Commission on Human Rights' 1992-93 report by an academic lawyer Brigid Hadfield (already cited). She criticised what she saw as the 'democratic deficit' inherent in the Order in Council arrangements, and made a number of recommendations so long as the system was in force. Her analysis and suggestions were substantially adopted by SACHR itself.⁷

The Issues

18. As highlighted in the consultant's paper there is a marked lack of accountability in the current procedures for legislating for Northern Ireland. The inadequacies may be summarised as follows:

(i) Considering that Northern Ireland Orders in Council are in effect primary laws in the form of delegated legislation, little allowance is made for effective pre-Parliamentary scrutiny.

(ii) Under present procedures, when draft Orders are laid before Parliament, they can not be amended at all and must be accepted or rejected in their entirety. In addition, limited time is made available for the debate on the principle of the Draft Order and frequently this takes place after 10 o'clock in the evening when few Members of Parliament attend and media coverage is limited. The Order in Council procedure arguably deprives elected representatives of the opportunity to participate in the way in which legislation is enacted for Northern Ireland.

(iii) While the proposal procedure is potentially very valuable, its success depends upon the extent to which it is used by the Government. Affirmative resolution Orders not including those dealing with routine appropriation and finance normally have a proposal stage, while negative resolution Orders do not. The Commission criticised the Government strongly when the Criminal Evidence (Northern Ireland) Order 1988 on right to silence was introduced without a proposal stage.

Following from (iii) above, it is argued that the Order in Council procedure can be used on occasions as a means of enacting legislation which would be the subject of close scrutiny under the Bill procedure. The Criminal Evidence (Northern Ireland) Order 1988, in the Commission's opinion, dealt essentially with an excepted matter, ie special powers for dealing with terrorism, but the Government proceeded by Order rather than by Bill using the argument that the Order dealt with the general criminal law, ie a 'reserved' rather than an 'excepted' matter under the Northern Ireland Constitution Act 1973.

⁶ Although, interestingly, there was virtually no mention of the matter during the era of the 'Jopling reforms' to Commons procedure and practice

⁷ 1992-93 Annual report, *op cit*, pp 9-10

The Northern Ireland Committee currently has very limited powers in relation to the consideration of proposals. It has been argued that this Committee could have a more valuable influence in the legislative process if it were to be given powers similar to those of a Select Committee.

(vi) A further cause for concern is the preference by the Government, on occasions, to legislate for Great Britain by Bill and to include a clause which has a provision applying to Northern Ireland (re parity) and which replaces the affirmative resolution procedure required by the 1974 Act with the negative procedure for the parity Order. In its *Sixteenth Report* (p 25 para 5.14) for example, the Commission drew attention to clause 42(1) of the Child Support Bill which read:

An Order in Council made under paragraph 1(1)(b) of Schedule 1 to the Northern Ireland Act 1974 which contains a statement that it is made only for purposes corresponding to those of this Act-

(a) shall not be subject to sub-paragraphs (4) and (5) of paragraph 1 of that Schedule (affirmative resolution of both Houses of Parliament); but

(b) shall be subject to annulment in pursuance of resolution of either House of Parliament.

In the Commission's view this effectively denied Parliament the opportunity to debate child support provisions which were to apply exclusively to Northern Ireland, albeit as part of a single system within the United Kingdom.

Recommendations

19. On the basis of its discussion of the paper from Miss Hadfield and its further scrutiny of present circumstances, the Commission makes the following recommendations:-

(i) In matters affecting human rights in Northern Ireland or which effect a fundamental change to the law of Northern Ireland, legislation should be made by way of Act and not Order in Council.

(ii) A study should be carried out as to how parity legislation for Great Britain and Northern Ireland can best be introduced by a single Act of Parliament applying throughout the United Kingdom.

(iii) More generally, proposed legislation under consideration by Westminster which affects Northern Ireland should be enacted by procedures which are equitable with the legislative procedures which operate in the rest of the United Kingdom.

- (iv) The Secretary of State should ensure that all non-parity Northern Ireland Orders in Council have a proposal stage and should adequately consult with all interested parties.
- (v) Consideration should in any event be given to extending the current consultation period for draft Orders from six weeks to three months where practicable and in normal circumstances.
- (vi) The Government should provide a statistical breakdown of the use of its legislative powers to date under the 1974 Act.

Submissions were also made by Dr Paisley and Mr Trimble to the Hansard Society Commission on the Legislative Process. (1992, pp 336-7, 358-61). The Commission's report in 1992, *Making the law*, noted briefly:

Northern Ireland, Scottish and Welsh legislation

363. We have considered the evidence we received from Northern Ireland MPs and from Members representing the Scottish Nationalist Party and Plaid Cymru regarding procedures for bills relating to their jurisdictions (paragraph 296). We hope that their special problems will be considered sympathetically - especially the case for returning to legislation for Northern Ireland by Acts rather than Orders - though we recognise serious political and constitutional implications of any change in respect of most of the matters drawn to our attention.

Table of Northern Ireland Legislation introduced under Direct Rule (1972-1998)⁸

Year	UK Acts wholly or mainly applying to Northern Ireland	Northern Ireland Orders in Council	Measures of the Northern Ireland Assembly
1972	2	22	-
1973	6	22	-
1974	2	7	4
1975	4	21	-
1976	1	28	-
1977	-	28	-
1978	2	28	-
1979	-	19	-
1980	1	17	-
1981	-	28	-
1982	1	23	-
1983	-	21	-
1984	-	15	-
1985	2	19	-
1986	-	25	-
1987	1	23	-
1988	-	24	-
1989	3	22	-
1990	-	17	-
1991	1	25	-
1992	3	20	-
1993	1	16	-
1994	-	17	-
1995	1	22	-
1996	2	26	-
1997	-	22	-
1998†	2	11	-
TOTAL	35	568	4

† As of 24 June 1998

Sources:

POLIS Database

Chronological Table of the Statutes; Northern Ireland, The Stationery Office, 1998

⁸ Prepared by Oriel Room staff of the Reference and Reader Services Section

B. Recent developments

All recent initiatives appear to have assumed that any internal settlement would, like other post-1972 schemes, involve some degree of legislative devolution, which would address the 'democratic deficit' argument, although little detail of its extent or operation has been published. The Framework Documents of February 1995 suggested, as part of a possible outline settlement, that an Assembly would have:⁹

legislative and executive responsibility over as wide a range of subjects as in 1973. If there were agreement it would be open to the Government to consider with the new institutions the scope for further transfers. Certain functions, including matters relating to the Crown, foreign affairs and defence, would remain at Westminster. It would be for consideration whether new institutions were given full legislative responsibility from day one or whether such responsibility would be assumed progressively ...

The Northern Ireland Secretary, in her 20 April statement to the House, on the Good Friday Agreement, said:¹⁰

The second part of the agreement says that there will be greater democratic accountability in Northern Ireland through the devolution of a wide range of executive and legislative powers to a Northern Ireland Assembly. In the Assembly, the posts of executive authority will be shared out on a proportional basis, and safeguards will be in place to protect the interests of both the communities.

The Agreement contained the following, under 'Strand One':¹¹

DEMOCRATIC INSTITUTIONS IN NORTHERN IRELAND

1. This agreement provides for a democratically elected Assembly in Northern Ireland which is inclusive in its membership, capable of exercising executive and legislative authority, and subject to safeguards to protect the rights and interests of all sides of the community.

The Assembly

2. A 108-member Assembly will be elected by PR(STV) from existing Westminster constituencies.

⁹ *A Framework for Accountable Government in Northern Ireland*, Feb 1995, p 6

¹⁰ HC Deb vol 310 c480, 20.4.98

¹¹ Cm 3883, p5

3. The Assembly will exercise full legislative and executive authority in respect of those matters currently within the responsibility of the six Northern Ireland Government Departments, with the possibility of taking on responsibility for other matters as detailed elsewhere in this agreement.
4. The Assembly - operating where appropriate on a cross-community basis - will be the prime source of authority in respect of all devolved responsibilities.

Assembly Committees "will have a role in initiation of legislation ...[and] have the power to ... approve relevant secondary legislation and take the Committee stage of relevant primary legislation" (para 9). A special Committee may be appointed to scrutinise proposed legislation conforms to equality, including ECHR requirements (para 9). The Executive Committee (the devolved 'Cabinet') "will provide a forum .. for prioritising executive and legislative proposals .." (para 19). The Agreement continued: (p 8):

Legislation

26. The Assembly will have authority to pass primary legislation for Northern Ireland in devolved areas, subject to:
 - (a) the ECHR and any Bill of Rights for Northern Ireland supplementing it which, if the courts found to be breached, would render the relevant legislation null and void;
 - (b) decisions by simple majority of members voting, except when decision on a cross-community basis is required;
 - (c) detailed scrutiny and approval in the relevant Departmental Committee;
 - (d) mechanisms, based on arrangements proposed for the Scottish Parliament, to ensure suitable co-ordination, and avoid disputes, between the Assembly and the Westminster Parliament;
 - (e) option of the Assembly seeking to include Northern Ireland provisions in United Kingdom-wide legislation in the Westminster Parliament, especially on devolved issues where parity is normally maintained (e.g. social security, company law).
27. The Assembly will have authority to legislate in reserved areas with the approval of the Secretary of State and subject to Parliamentary control.
28. Disputes over legislative competence will be decided by the Courts.
29. Legislation could be initiated by an individual, a Committee or a Minister.

The legislative role of the Westminster Parliament was considered in the Agreement:

33. The Westminster Parliament (whose power to make legislation for Northern Ireland would remain unaffected) will:

- (a) legislate for non-devolved issues, other than where the Assembly legislates with the approval of the Secretary of State and subject to the control of Parliament;
- (b) to legislate as necessary to ensure the United Kingdom's international obligations are met in respect of Northern Ireland;
- (c) scrutinise, including through the Northern Ireland Grand and Select Committees, the responsibilities of the Secretary of State.

C. The Bill

The legislative powers of the Assembly are dealt with in Part II of the Bill. Assembly legislation, once passed and given Royal Assent, will be known as Acts (*cl 5*). It is explicitly declared that the provisions of clause 5 "does not affect the power of the Parliament of the United Kingdom to make laws for Northern Ireland" (*cl 5(6)*).

The Assembly's legislative competence is set out in *clause 6*.¹² Provisions outside the Assembly's competence will be *ultra vires*. This arises where any of the following applies in relation to a provision (*cl 6(2)(a)*):

- (a) it would form part of the law of a country or territory other than Northern Ireland, or confer or remove functions exercisable otherwise than in or as regards Northern Ireland;
- (b) it deals with an excepted matter and is not ancillary to other provisions (whether in the Act or previously enacted) dealing with reserved matters or transferred matters;
- (c) it modifies an enactment in breach of Schedule 4;
- (d) it is incompatible with any of the Convention rights or with Community law;
- (e) it is not incompatible with any of those rights but it discriminates against any person or class of person on the ground of religious belief or political opinion.

¹² The division into 'excepted matters', 'reserved matters' and 'transferred matters' is dealt with by *clause 4* and *schedules 2* and *3*, on which see Research Paper 98/76, section IIC

The courts will be required to try to interpret provisions as *intra vires* as far as possible (*cl 6(3)*):

(3) Any provision of an Act of the Assembly is to be read, so far as possible, so as to be within the legislative competence of the Assembly and is to have effect accordingly.

The Bill contains procedures to ensure that Assembly Bills are *intra vires*:

- The Secretary of State's consent is required for Bills dealing with excepted or reserved matters, in certain circumstances (*cl 7*).
- The minister in charge of a Bill shall make and publish a written statement that in his or her view the Bill is *intra vires* (*cl 8*).
- The Presiding Officer is required to scrutinise the Bill at various stages for *vires* (*cl 9*).
- The Attorney General for Northern Ireland can, at certain stages, refer a Bill on *vires* grounds to the Judicial Committee of the Privy Council (*cl 10*)

The Assembly is required to create its own legislative procedures for Bills through Standing Orders (*clause 11*), which can include consideration by a committee envisaged in the Belfast Agreement to examine legislation on 'equality/human rights' grounds (*cl 11(2)*).¹³ By contrast with Scottish Parliament legislation it is the Secretary of State, not the Presiding Officer who submits Bills for Royal Assent (*cl 12*), and at that stage can also scrutinise the proposed Act on *vires* grounds. As envisaged in the Agreement (para 27 of Strand One) the Assembly can enact legislation dealing with reserved matters, but subject to the consent of the Secretary of State (Westminster) Parliamentary control

II The Northern Ireland Bill

A. Standing Orders

The Assembly's proceedings will be regulated by Standing Orders (*clause 33(1)*). Standing Orders cannot be made without 'cross-community support' (*cl 33(2)*). Initial Standing Orders were prepared by the Secretary of State, dealing with a number of issues specified in the *Northern Ireland (Elections) Act 1998* and notified to the Presiding Officer¹⁴

¹³ Para 11 of Strand One section

¹⁴ Para 10 of the schedule to the 1998 Act.

The matters to be dealt with by Standing Orders are set out throughout the Bill. In particular *schedule 7* requires them to include provisions for the

- *preservation of order*
- *proceedings to be in public*
- *reporting and publishing of proceedings*
- *committees*
- *Crown interests*

Other matters include the

- *scrutiny of Bills by the Presiding Officer (cl 9)*, including the overruling of the Presiding Officer's decision by the Assembly,
- *legislative process (cl 11)*, including detailed scrutiny of Bills by committees, 'human rights' scrutiny, and reconsideration of Bills after the passing if declared to be *ultra vires*,
- *elections for First minister and deputy First Minister (cl 14)*,
- *periods for selection of Ministerial office and for Ministers to take up office (cl 15)*, including the filling of vacancies,
- *statutory committees (cl 22)*, including their composition by party,
- *exercise of Presiding Officer's functions by deputies (cl 31(5))*,
- *participation of presiding officer and deputies in Assembly's proceedings (cl 31(6))*,
- *membership of Northern Ireland Assembly Commission (cl 32)*,
- *petitions of concern by Assembly Members (cl 34(2))*,
- *Members' interests (cl 35)*
- *publication of determinations on Members' pay and allowances (cl 38)*
- *financial acts of the assembly to require 'cross-community support' (cl 50)*

B. Assembly Acts

The Bill provide for certain actions to be taken by Act of the Assembly, including:

- *machinery of government (cl 17)*, creating and dissolving NI Departments
- *money for Members' pay and allowances (cl 38)* and pensions (*cl 39*)
- *money for consultation with Civic Forum (cl 65)*

C. Staff

Assembly staff are to be employed by the Assembly, through the assembly Commission created by *s32* and *sch 6*. This compares with the Scottish Parliament¹⁵, but contrasts with the national Assembly for Wales¹⁶, where Assembly staff will be civil servants. *Cl 32(4)* provides:

The Commission shall provide the Assembly, or ensure that the Assembly is provided, with the property, staff and services required for the Assembly's purposes.

Para 3 of *sch 6* fleshes out this provision:

Staff

3. - (1) The Commission may appoint staff.

(2) The persons appointed by the Commission are referred to in this Act as the staff of the Assembly.

(3) It is for the Commission to determine the terms and conditions of appointment of the staff of the Assembly, including arrangements for the payment of pensions, gratuities or allowances to, or in respect of, any person who has ceased to be a member of the staff of the Assembly.

(4) Accordingly, the Commission may-

(a) make contributions or payments towards provision for such pensions, gratuities or allowances;

(b) establish and administer one or more pension schemes.

(5) The power conferred by sub-paragraph (1) includes power to make arrangements for administrative, secretarial or other assistance to be provided for the Commission by officers of the civil service of Northern Ireland or the civil service; and the reference in sub-paragraph (2) to persons appointed by the Commission shall be construed accordingly.

D. Members' pay and allowances

Assembly members will be paid at an annual rate of £29,292 during the shadow period (unless already serving as an MP or MEP in which case it will be abated by 2/3). Each Assembly member will also be entitled to an office costs allowance initially at the rate of £15,000 for the first six months of the shadow period.¹⁷ Ministers salaries for the period were set out as follows (including the Member's salary): First Minister: £60,164, Deputy First Minister: £54,874, Minister: £45,069, Presiding Officer: £45,069. In addition to the

¹⁵ Currently para 3 of *sch 2* of the *Scotland Bill* [HL Bill 119, as introduced in the Lords]

¹⁶ Currently cl 34 of the *Government of Wales Bill* [HL Bill 141, as amended on report]

¹⁷ NIO PN 19.6.98, *Developments after the election*

Assembly Member's salary, a Deputy Presiding Officer will receive an allowance of £78.88 for each day spent deputising for the Presiding Officer.¹⁸ Sinn Fein have stated that their representatives intend to conduct business in Irish in the new Assembly.¹⁹

Permanent arrangements are dealt with by *clause 38*. The Assembly will have power to determine the pay and allowances of its Members, including different rates or scales for different categories, such as higher salaries for ministers, the Presiding officer (and deputies), and others office-holders specified in Standing Orders. Cl 38(9) provides that:

(9) For the purposes of this section-

(a) a person's membership of the Assembly begins on the day on which he takes his seat in accordance with standing orders; and

(b) a person's holding of such an office as is mentioned in subsection (3)(a) begins on the day on which he takes up office.

E. The Assembly and Privilege

Under the *Government of Ireland Act 1920* Stormont enjoyed Parliamentary privilege equivalent to that of Westminster:

18.-(1) The powers, privileges, and immunities of the Senate and House of Commons of Northern Ireland, and of the members and of the committees thereof, shall be such as may be defined by Act of the Parliament in question, and, until so defined, shall be those held and enjoyed by the Commons House of Parliament of the United Kingdom and its members and committees at the date of the passing of this Act.

Through Stormont's lifetime it followed Westminster procedure, practice and precedents. The *Northern Ireland Constitution Act 1973* conferred equivalent privileges on the Northern Ireland Assembly:

26.-(1) The Powers, privileges and immunities of the Assembly and of the members and committees thereof shall be the same as those for the time being held and enjoyed by the House of Commons and its members and committees but this subsection has effect subject to section 25(7) above and to any provision made by Measure.

¹⁸ NIO Press Release 29.6.98 'Assembly Salaries'

¹⁹ *Times* 18.6.98 'Business in Irish for Sinn Fein'

The reference to *s25(7)* is as follows:

The standing orders may provide for enabling a consultative committee to obtain from any department in relation to which it is established such information as the committee may require for the purpose of discharging its functions but shall not enable the committee or any member thereof to have access to any papers of that department.

However the *Northern Ireland Act 1974* sch. 2 para 13 provided for absolute privilege for the purposes of the law of defamation for the Convention due to take place in 1975:

13. For the purposes of the law of defamation the following shall be absolutely privileged-

- (a) the proceedings of the Convention and its committees ;
- (b) any official record of those proceedings ;
any report of the Convention under section 2(2) of this Act.

The *Northern Ireland Act 1982* replaced *s26(1)* of the *1973 Act* with the following:²⁰

“(1) Subject to subsection (1A) below and to any provision made by Measure, the Powers, privileges and immunities of the Assembly and of its members and committees shall be the same as those for the, time being held and enjoyed by the House of Commons and its members and committees.

(1A) Neither the Assembly nor its committees shall have power-

- (a) to require any person to give evidence, or to produce any papers, relating to any matter other than one in respect of which the Assembly has power to pass a Measure not requiring the consent of the Secretary of State; or
- (b) to require any person to give evidence, or to produce any papers, relating to any matter which is or has been within his responsibility as a Minister of the government of the United Kingdom or as an officer of a department under the control of any such Minister."

This was further clarified in para. 3(4):

4. The matters referred to in section 26(1A)(b) of the Constitution Act include any matter which is or has been within the responsibility of the Secretary of State by virtue of paragraph 2 of Schedule 1 to the Northern Ireland Act 1974 or within the responsibility of an officer of a Northern Ireland department under the control of the Secretary of State by virtue of that paragraph.

²⁰ *1982 Act*, sch. 2 para. 3(2)

Under the *Northern Ireland (Entry Into Negotiations Etc) Act 1996* sch 2 para 5 the Northern Ireland Forum enjoyed the following protection:

Privilege

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.

In the *Northern Ireland Elections Act 1998* para 8 of the Schedule employs similar language, for the shadow period of the Assembly:

Privilege

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

Clause 41 of the current Bill sets out the application of privilege to the Assembly:

Privilege. 41. - (1) For the purposes of the law of defamation, absolute privilege shall attach to-

- (a) the making of a statement in proceedings of the Assembly; and
- (b) the publication of a statement under the Assembly's authority.

(2) A person is not guilty of contempt of court under the strict liability rule as the publisher of any matter-

- (a) in the course of proceedings of the Assembly which relate to a Bill or subordinate legislation; or
- (b) to the extent that it consists of a report of such proceedings.

(3) In this section-

"statement" has the same meaning as in the Defamation Act 1996;

"the strict liability rule" has the same meaning as in the Contempt of Court Act 1981.

F. Order-making powers in the Bill

The order-making powers are regulated mainly by *clause 77* of the Bill. Those listed below marked with an * are 'Henry VIII' provisions (ie they can amend or repeal primary legislation).²¹ Some powers are exercised by Order in Council (*cl 72*), relating to district council elections and boundaries (but not the franchise), and to any reserved matter. There is also a general (UK-wide) 'Henry VIII' provision relating to the Orders in Council in *cl 72(2)*.

- Orders subject to the affirmative procedure in both Houses are those dealing with:
 - Commencement of parts II and III of the Act: 'devolution orders' (*cl 3*): *Orders in Council*
 - Changes to designation of 'reserved' and 'transferred' matters (*cl 4*): *Orders in Council* (subject to prior Assembly resolution with 'cross-community support')
 - Date of Assembly election where ministers unable to carry out their functions (*cl 24(4)*) *Orders in Council*
 - Elections of Assembly Members (*cl 26(4)*)
 - Filling of vacancies (*cl 27(1)*)
 - Prorogation of the Assembly (*cl 43*) *Orders in Council* (affirmative procedure not required if for no more than 4 months, or not extending previous period: *cl 43(2)*)
 - 'Public authority' for purposes of statutory duty re equality (*cl 61(3)(e)*)
 - 'Implementation bodies' for cross-border or all-island purposes (*cl 68*)*
 - Clause 1 polls on status of Northern Ireland (*sch 1*)

- Orders subject to the negative (annulment) procedure by either House are those dealing with:
 - The maximum number of Northern Ireland ministers (*cl 15(3)*)
 - The date of Assembly general elections (*cl 24(3)* and (6))
 - Amount of security for costs in disqualification proceedings (*cl 30(6)*)
 - Provisions on the dissolution of SACHR (*cl 58(2)*)
 - Provisions on the functions of the Equality Commission (*cl 60(4)*)*

- Orders apparently requiring no Parliamentary procedure are:
 - Repealing Acts already Assented to under 'urgency' provisions (*cl 13(4)*)* *Orders in Council* (but subject to prior Parliamentary action)
 - Directions to stop executive actions considered incompatible with international obligations (*cl 20*)
 - Prorogation of the Assembly (*cl 43*): *Orders in Council* (affirmative procedure required if for more than 4 months, or extending previous period: *cl 43(2)*)
 - Appointed day for bringing Act's provisions into force (*cl 82(3)*)

²¹ See generally Research Papers 94/16 and 94/116.

- Orders subject to the affirmative procedure by the House of Commons only are those dealing with:
 - Contribution to UK Consolidated fund for excepted and reserved matters (*cl 45(4)*)

- Orders subject to the negative procedure by the House of Commons only are those dealing with:
 - Regulation re NI Consolidated Fund (*cl 45(3)*)
 - Amount of advances by Secretary of State (*cl 48(7)*)

NORTHERN IRELAND ASSEMBLY

INITIAL STANDING ORDERS

28 June 1998

Source: Northern Ireland Office

1. INTRODUCTION

These Initial Standing Orders are notified to the Presiding Officer of the New Northern Ireland Assembly (hereafter referred to as 'the Assembly') by the Secretary of State for Northern Ireland in accordance with Paragraph 10(1) of the Schedule to The Northern Ireland (Elections) Act 1998.

2. GENERAL RULE FOR THE CONDUCT OF BUSINESS

- (1) The Presiding Officer's ruling shall be final on all questions of procedure and order.
- (2) The Presiding Officer, in exercising powers under these Orders, shall at all times have regard to the fact that the purpose of the Assembly is to take part in preparations to give effect to the agreement reached at the multi-party talks on Northern Ireland, set out in Command Paper 3883,
- (3) The Deputy Presiding Officer may act as Presiding Officer when requested to do so by the Presiding Officer or when the latter is unable to act.

3. TAKING SEATS IN THE ASSEMBLY

- (1) Members shall take their seats by signing the Assembly's roll of membership and registering a designation of identity - Nationalist, Unionist or Other. The arrangements for this shall be determined by the Presiding Officer and all members shall have the opportunity to take their seats in the prescribed manner before any other formal business is conducted in the Assembly.
- (2) The decision of the Presiding Officer as to whether a member has taken his or her seat in accordance with sub-paragraph (1) shall be final.
- (3) A member may change his or her designation of identity by giving seven days written notice to the Presiding Officer. The Presiding Officer shall immediately circulate the notice to all members.
- (4) A member may resign his or her seat by giving written notice to the Presiding Officer.

4. QUORUM

- (1) The quorum of the Assembly shall be 10 members.
- (2) If at any time the attention of the Presiding Officer is directed by a member to the fact that a quorum is not present, the Presiding Officer shall cause an announcement to be made; and if at the expiration of 5 minutes a quorum is then not present, the Presiding Officer shall adjourn the Assembly forthwith; but if a quorum is then present it shall not be in order to draw the attention of the Presiding Officer to the absence of a quorum for a period of one hour from that time.

5. SITTINGS OF THE ASSEMBLY

- (1) Beginning with the second meeting of the Assembly, the Presiding Officer shall at the commencement of each day's business direct that a period of two minutes silence be observed, which members may spend in personal prayer or meditation.
- (2) A general announcement shall be made 'five minutes before the Presiding Officer takes the Chair at a sitting or a resumed sitting.
- (3) The Presiding Officer may at any time suspend sittings of the Assembly for up to 15 minutes, or longer with the leave of the Assembly.

6. BUSINESS OF THE ASSEMBLY

- (1) Subject to the provisions of sub-paragraph (5) the business of the Assembly each day shall be such as the Presiding Officer may direct.
- (2) The Presiding Officer shall prepare an agenda for each sitting day showing the business to be taken, together with such other information as is relevant to the business outlined in the agenda.
- (3) Notice of future business shall be given in writing to the Presiding Officer, who shall prepare at least twice weekly when 'the Assembly is sitting and at least fortnightly when in recess a Business paper listing the notices received,
- (4) Except by the leave of the Assembly, no motion may be proposed unless notice of it has appeared in a Business Paper circulated at least one day before that on which the motion is to be taken. No such leave may be sought in respect of a motion which would require cross-community support.
- (5) The business of the Assembly at its first meeting shall be restricted to 'the matters set out in the Agenda at Annex A to these Orders and shall be taken in the order specified. No other business may be transacted by the Assembly until the matters on that Agenda have been completed.
- (6) Sub-paragraphs (1) to (4) shall not apply to the first meeting of the Assembly.

7. MINUTES OF PROCEEDINGS

- (1) The Presiding Officer shall arrange for proceedings of the Assembly to be noted, and, after perusal and signature by the Presiding Officer, a copy of the minutes of proceedings shall be circulated to all members.
- (2) The minutes of proceedings for each day's sitting shall include a record of the names of those members who attended.

8. SPEECHES IN THE ASSEMBLY

(1) No motion or amendment (other than a motion for the election of the Presiding Officer or the Deputy Presiding Officer or the election of the First Minister and Deputy First Minister) shall require to be seconded.

(2) A member shall not address The Assembly unless called on to speak by the Presiding Officer; and when the Presiding Officer rises to speak, the member addressing the Assembly shall cease speaking and resume his or her place.

(3) A member may not speak more than once to the same motion, but a right of reply shall be allowed to a member who has moved a motion.

(4) Notwithstanding sub-paragraph (3). any member may seek to intervene while another member is speaking, subject to that member's consent, but may not persist in so doing if the person speaking refuses to give way.

(5) Except by the leave of the Assembly, a member may not speak in debate on any motion for longer than the periods specified below:

- (a) member moving a motion - 20 minutes,,
- (b) any other member (including a member moving an amendment) 1 0 minutes;
- (c) member moving a substantive motion in reply - 1 5 minutes.

(6) The Presiding Officer, after having called the attention of the Assembly to the conduct of a member who persists in irrelevance or Tedious repetition, may direct the member to discontinue his or her speech.

9. AMENDMENTS

(1) An amendment or amendments to motions on the day's Order of Business must be given in writing to the office of the Presiding Officer at least one hour prior to the commencement of the day's business. An amendment must be in the name of at least one member who shall sign the amendment.

(2) When an amendment has been moved to any motion, the question to be proposed shall be that the amendment be made.

(2) In respect of any motion, the Presiding Officer shall have power to select the amendments to be proposed.

10. ORDER IN THE ASSEMBLY

(1) If any member of the Assembly:

- (i) persistently and intentionally obstructs the business of the Assembly; or
- (ii) is guilty of disorderly conduct; or

- (iii) uses objectionable words which he/she refuses to withdraw; or
- (iv) intentionally refuses to conform to any Standing Order; or
- (v) intentionally disregards the authority of the Presiding Officer,

the Presiding Officer, having (if appropriate) called on the member to withdraw his or her remarks and having called the attention of the Assembly to the conduct of the said member, may direct the member to discontinue his or her speech, or to withdraw immediately from the debating chamber and its precincts. Any member so ordered to withdraw shall do so forthwith, and shall not be entitled to take part in any proceedings for the remainder of that day's sitting.

(2) In the case of general disorder arising in the Assembly, the Presiding Officer may, if the Presiding Officer thinks it necessary, adjourn the proceedings, or suspend the sitting for such a period as the Presiding Officer thinks fit.

11. CLOSURE OF DEBATE

(1) After a motion has been proposed and provided that each of the parties present has had a reasonable opportunity to contribute to the debate, any member who has not already spoken to it, or to any amendment which has been moved, may move that The question be now put; and unless it shall appear to the Presiding Officer that such motion is an abuse of these Standing Orders, the question that the question be now put shall be put forthwith, and decided without amendment or debate.

(2) If such a motion has been carried, the Presiding Officer may call whatever amendments are necessary to bring to a decision any question which has already been proposed. Such further amendments shall be put forthwith, and decided without amendment or debate.

12. VOTING

(1) Except as provided by sub-paragraph (2) or (3), every decision of the Assembly shall be taken by a simple majority of those voting,

(2) The following, namely:

- (a) the election of the Presiding Officer and of the Deputy Presiding Officer;
- (b) any decision concerning 'the Standing Orders of the Assembly; and
- (c) a vote on a matter in respect of which a petition of concern has been presented,

shall require cross-community support.

(3) The election of the First Minister and Deputy First Minister shall require parallel consent.

(4) For the purposes of these Standing Orders "cross-community support" means;

- (a) the support of a majority of those members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting; or

- (b) the support of 60 per cent of the members voting, 40 per cent of the designated Nationalists voting and 40 per cent of the designated Unionists voting,

"parallel consent' means the support of a majority of the members voting, a majority of the designated Nationalists voting and a majority of the designated Unionists voting.

(5) A petition of concern in respect of any matter shall be in the form of a notice signed by at least 30 members presented to the Presiding Officer. No vote may be held on a matter which is the subject of a petition of concern until at least one day after the petition of concern has been presented.

(6) The Presiding Officer shall not be entitled to a vote on any matter.

(7) Voting shall be conducted by either a voice vote or by a show of hands as the Presiding Officer considers appropriate. If, in the course of a sitting, the opinion of the Presiding Officer as to the decision of a question is challenged, the Presiding Officer shall cause a general announcement to be made, and after an interval of three minutes shall ask each member by name, in alphabetical order, to declare Aye or No in respect of the question put. A member may abstain from voting. The Presiding Officer shall then announce the number of votes cast, and the determination of the Assembly.

13. ELECTION OF THE PRESIDING OFFICER

(1) Any member, addressing the Presiding Officer, may propose a candidate (a member, whether or not present, and including the person nominated by the Secretary of State as the initial Presiding Officer), to the Assembly for its Presiding Officer and move "That [x] be Presiding Officer of this Assembly', which motion will require to be seconded and to be followed by a statement (which may be given orally or in writing) from the candidate proposed and seconded that nomination is accepted.

(2) When a candidate is proposed and seconded and has accepted nomination, the Presiding Officer shall then ask "is there any further proposal?" and:

- (a) if there is no further proposal, the Presiding Officer shall say "The time for proposals has expired" and a debate relevant to the election may then take place; or
- (b) if more than one candidate is proposed and seconded as Presiding Officer and has signified that he or she accepts nomination, the Presiding Officer shall, after each proposal has been made and seconded and the nomination has been accepted, say "Is there any further proposal?", and if there is no further proposal the Presiding Officer shall say "The time for proposals has expired", and a debate relevant to the election may then take place.

(3) Upon the conclusion of the debate, or, if there is no debate, the Presiding Officer shall put the question "That [x] (being the only candidate proposed or the candidate first proposed) be Presiding Officer of this Assembly".

(4) If the question be not carried, the Presiding Officer shall put a similar question in relation to the second candidate proposed, whereupon, if resolved in the affirmative, that candidate shall be declared by the Presiding Officer to be elected and shall forthwith take the chair; and this shall be done in relation to each candidate proposed as often as necessary until a candidate is chosen to be Presiding Officer.

(5) Until a member is elected as aforesaid, the initial Presiding Officer shall continue in office.

(6) A similar procedure shall be followed in relation to any proposal regarding the election of a Deputy Presiding Officer.

14. ELECTION OF FIRST MINISTER AND DEPUTY FIRST MINISTER

(1) The First Minister and Deputy First Minister of the Assembly shall be jointly elected by the members.

(2) Any member, addressing the Presiding Officer, may propose candidates (members, whether or not present), to the Assembly for its First Minister and Deputy First Minister and move "That [x] be First Minister and [x] be Deputy First Minister of this Assembly", which motion will require to be seconded and to be followed by statements (which may be given orally or in writing) from the candidates proposed and seconded that they accept nomination.

(3) When a pair of candidates is proposed and seconded and has accepted nomination, the Presiding Officer shall then ask "is there any further proposal?" and:

- (a) if there is no further proposal, the Presiding Officer shall say "The time for proposals has expired" and a debate relevant to the election may then take place in which no member may speak more than once; or
- (b) if more than one pair of candidates is proposed and seconded as First and Deputy First Minister and have signified that they accept nomination, the Presiding Officer shall, after each proposal has been made and seconded and the nominations have been accepted, say "is there any further proposal?", and if there is no further proposal the Presiding Officer shall say "The time for proposals has expired", and a debate relevant to the election may then take place.

(4) Upon the conclusion of the debate, or, if there is no debate, the Presiding Officer shall put the question "That [x and X] (being the only candidates proposed or the candidates first proposed) be First Minister and Deputy First Minister of this Assembly".

(5) If the question be not carried, the Presiding Officer shall put a similar question in relation to the second pair of candidates proposed, whereupon, if resolved in the affirmative, those candidates shall be declared by the Presiding Officer to be elected and this shall be done in relation to each pair of candidates proposed as often as necessary until candidates are chosen to be First Minister and Deputy First Minister.

(6) The Presiding Officer shall immediately ask those members of the Assembly chosen to be First Minister and Deputy First Minister to affirm to the Assembly:

- (a) their commitment to non-violence and exclusively peaceful and democratic means;
- (b) their opposition To any use or threat of force by others for any political purpose;
- (c) their commitment to work in good faith to bring into being The arrangements set out in the Agreement reached in the multi party negotiations on 1 0 April I 998; and
- (d) their commitment to observe the spirit of the Pledge of Office at Annex R to these Orders,

If they do not do so the election shall be void.

(7) If no member is elected as aforesaid, the procedure for election shall be repeated after a period specified by the Presiding Officer (who may wish to consult with members of the Assembly, as he sees appropriate, in that period), until candidates are chosen to be First Minister and Deputy First Minister,

15. COMMITTEES OF THE ASSEMBLY

- (1) Committees to assist the Assembly in the consideration of matters referred to it shall be appointed by motion made after notice, setting out terms of reference, quorum, composition and the date by which the committee should report the outcome of its deliberations to the Assembly.
- (2) Committees shall consist of not less than 1 0 and not more than 1 8 members and shall be such that, as far as is practicable, there is a fair reflection of the parties participating in the Assembly arid That each party with at least two members shall have at least one seat on each Committee.
- (3) A committee appointed under sub-paragraph (1) may sit at any time.
- (4) Members of the press and public may be admitted at the discretion of the committee,
- (5) The procedures of a committee appointed under sub-paragraph (1) of these Orders shall be such as the committee itself determines, or as the Assembly shall otherwise order.
- (6) A full minute shall be taken of all committee meetings which shall be circulated to all members of that Committee.

16. COMMITTEE TO ADVISE THE PRESIDING OFFICER

- (1) A Committee of the Assembly may be established to advise the Presiding Officer on the arrangement of the business of the Assembly and an practical issues related to .the provision of appropriate facilities for members.
- (2) The Committee shall consist of the Presiding Officer (who shall be Chairperson), the Deputy Presiding Officer and not less than eight and not more than sixteen members appointed by the Presiding Officer, following consultation with the leaders of the parties in the Assembly, and shall be such that, so far as is practicable, there is a fair reflection of the parties participating in the Assembly and that each party with at least two members shall have at least one place.
- (3) The quorum of the Committee shall be five.
- (4) The procedures of the Committee shall be such as the Committee shall determine.

17. VISITORS

- (1) Visitors shall be admitted under supervision only to such places in the Assembly and its precincts as may be specified by the Presiding Officer.
- (2) For the purposes of this Rule, the term "visitors" includes all persons other than members and officers of the Assembly and members of the news media.
- (3) The Presiding Officer may, if the Presiding Officer thinks fit, order the withdrawal of visitors from sittings of the Assembly and its committees.
- (4) Visitors shall not be permitted to take into the Assembly any mobile telephone, camera, tape recorder, briefcase or large bag.

18. NEWS MEDIA

- (1) Notwithstanding anything contained in paragraph 17 of these Orders, unless otherwise ordered, members of the news media shall be admitted under supervision only to such places in the Assembly and its precincts as may be specified by the Presiding Officer.
- (2) The Presiding Officer may, if the Presiding Officer thinks fit, order the withdrawal of the news media from sittings of the Assembly and its committees.
- (3) Members of the news media shall not be permitted to take into the Assembly any mobile telephone, tape recorder, briefcase or large bag.
- (4) Unless the prior permission of the Presiding Officer has been sought and granted, members of the news media shall not be permitted to take into the Assembly any camera.
- (5) Unless the prior permission of the Presiding Officer has been sought and granted, members of the news media shall not be permitted to photograph, interview or record in areas not designated for the purpose.

19. SYMBOLS, EMBLEMS AND FLAGS

Apart from any personal badges, no political symbols, emblems or flags shall be displayed in the Assembly. The Presiding Officer's decision on such matters shall be final.

ANNEX A

INITIAL AGENDA

1. Presiding Officer to bring to the attention of the Assembly:
 - (a) the Presiding Officer's letter of appointment;
 - (b) the notice sent to the Presiding Officer regarding the time and place of the first meeting of the Assembly.,
 - (c) the statutory remit of the new Assembly;
 - (d) any matters referred to the Assembly under Section 1(2) of the Northern Ireland (Elections) Act 1998.

2. Members shall then be invited by the Presiding Officer to take their seats in accordance with paragraph 3 of These Orders and the business of the Assembly shall be as follows:
 - (a) consideration of any proposals regarding the election of the Presiding Officer,
 - (b) consideration of any proposals regarding the election of the Deputy Presiding Officer:
 - (c) consideration of any proposals regarding the election of a First Minister (designate) and Deputy First Minister (designate);
 - (d) consideration of any motion to establish a Committee, in accordance with paragraph 1 5 of these Orders, to assist the Assembly in the consideration of Standing Orders;
 - (e) consideration of any motion to invite the First Minister (designate) and Deputy First Minister (designate) To consider and, after consultation, make proposals regarding matters referred to the Assembly, under Section 1(2) of The Northern Ireland (Elections) Act 1998 and any other matter connected with the future business of the Assembly, and to report to the Assembly by a specified date;
 - (f) consideration of any motion in the name of the Presiding Officer to establish a Committee in accordance with paragraph of 16 these Orders

ANNEX B

Pledge of Office

To pledge-,

- (a) to discharge 'in good faith all the duties of office;
- (b) commitment to non-violence and exclusively peaceful and democratic means;
- (c) to serve all the people of Northern Ireland equally, and to act in accordance with the general obligations on government to promote equality and prevent discrimination;

- (d) to participate with colleagues in the preparation of a programme for government;
- (e) to operate within the framework of that programme when agreed within the Executive Committee and endorsed by the Assembly;
- (f) to support, and to act in accordance with, all decisions of the Executive Committee and Assembly;
- (g) to comply with the Ministerial Code of Conduct.

CODE OF CONDUCT

Ministers must at all times:

- observe the highest standards of propriety and regularity involving impartiality, integrity and objectivity in relationship to the stewardship of public funds;
- be accountable to users of services, the community and, through the Assembly, for the activities within their responsibilities, their stewardship of public funds and the extent to which key performance targets and objectives have been met;
- ensure all reasonable requests for information from the Assembly, users of services and individual citizens are complied with; and that Departments and their staff conduct their dealings with the public in an open and responsible way;
- follow the seven principles of public life set out by the Committee on Standards in Public Life;
- comply with this code and with rules relating to the use of public funds;
- operate in a way conducive to promoting good community relations and equality of treatment;
- not use information gained in the course of their service for personal gain; nor seek to use the opportunity of public service to promote their private interests;
- ensure they comply with any rules on the acceptance of gifts and hospitality that might be offered;
- declare any personal or business interests which may conflict with their responsibilities. The Assembly will retain a Register of Interests. Individuals must ensure that any direct or indirect pecuniary interests which members of the public might reasonably think could influence their judgement are listed in the Register of Interests.