

Northern Ireland (Executive Formation) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Northern Ireland Office, have been ordered to be published as HL Bill 190 – EN.

EUROPEAN CONVENTION ON HUMAN RIGHTS

Lord Duncan of Springbank has made the following statement under section 19(1)(b) of the Human Rights Act 1998:

I am unable (but only because of clause 8) to make a statement that, in my view, the provisions of the Northern Ireland (Executive Formation) Bill are compatible with the Convention rights but the Government nevertheless wishes the House to proceed with the Bill.

Northern Ireland (Executive Formation) Bill

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Extend the period for forming an Executive under section 1(1) of the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 and to impose a duty on the Secretary of State to report on progress towards the formation of an Executive in Northern Ireland.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

Executive formation

1 Extension of period for forming an Executive

In section 1(1) of the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018, for “25 August 2019” substitute “21 October 2019”.

2 Limited power to further extend period for Executive formation

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For section 2 of the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 substitute—

“2 Limited power to further extend period for Executive formation

- (1) The Secretary of State may by regulations amend section 1(1) so as to replace “21 October 2019” with “13 January 2020”. 10
- (2) The power under subsection (1) may only be used on or before 21 October 2019.
- (3) Regulations under subsection (1) are to be made by statutory instrument.
- (4) A statutory instrument containing regulations under subsection (1) must be laid before Parliament after being made. 15
- (5) If the instrument is not approved by a resolution of each House of Parliament within the period of 28 days beginning with the day on which it is made, the regulations cease to have effect.

- (6) If the regulations cease to have effect in accordance with subsection (5) on or before 21 October 2019, the period mentioned in section 1(1) is to be treated for all purposes as ending with that date.
- (7) If the regulations cease to have effect in accordance with subsection (5) after 21 October 2019, the period mentioned in section 1(1) is to be treated for all purposes as ending when the regulations cease to have effect. 5
- (8) In calculating the period of 28 days mentioned in subsection (5), no account is to be taken of any time during which Parliament is dissolved or prorogued or during which both Houses are adjourned for more than four days.” 10

Reports and debates

3 Progress reports

- (1) The Secretary of State must, on or before 4 September 2019, publish a report explaining what progress has been made towards the formation of an Executive in Northern Ireland (unless an Executive has already been formed). 15
- (2) The Secretary of State must lay the report before Parliament.
- (3) The Secretary of State shall make a further report under subsection (1) on or before 9 October 2019 and at least every fourteen calendar days thereafter until either an Executive is formed or until 18 December 2019, whichever is the sooner. 20
- (4) The report under subsection (1) must include a report on progress made towards protecting veterans of the Armed Forces and other security personnel from repeated investigation for Troubles-related incidents by introducing a presumption of non-prosecution, in the absence of compelling new evidence, whether in the form of a Qualified Statute of Limitations or by some other legal mechanism. 25
- (5) The report under subsection (1) must include a report on progress made towards developing new prosecution guidance for legacy cases of Troubles-related incidents by the Attorney General for Northern Ireland to take into account whether or not the person who allegedly committed an offence had the means to do so because that person had been lawfully supplied with a deadly weapon, with a presumption in favour of prosecuting in cases where a person who has allegedly committed an offence had the means to do so because that person had been unlawfully supplied with a deadly weapon. 30 35
- (6) The report under subsection (1) must include a review of the current legal framework on abortion in Northern Ireland with an analysis of how that framework could be amended by Parliament during the period when there is no Executive, subject to a sunset clause to respect devolution, in order to comply with the human rights obligations of the United Kingdom. 40
- (7) The report under subsection (1) must include a report to be published on or before 4 September 2019 on progress made in Northern Ireland on – 45
- (a) the law on gaming machines;
 - (b) the law on online gambling;
 - (c) the number of people who are seeking treatment for problem gambling;

- (d) the services available to people seeking problem gambling; and
- (e) the level of support from the gambling industry for problem gambling.
- (8) The report under subsection (1) must include a report to be published on or before 4 September 2019 on progress on the use of discretionary powers to provide assistance and support under section 18(9) of the Human Trafficking and Exploitation (Criminal Justice and Support for Victims) Act (Northern Ireland) 2015. The report must cover – 5
- (a) how many times the Department has decided it is necessary to provide assistance and support for victims of human trafficking for whom there has been a conclusive determination that the person is a victim of trafficking in human beings; 10
- (b) the reasons the Department has decided it is necessary to provide assistance and support for victims of human trafficking for whom there has been a conclusive determination that the person is a victim of trafficking in human beings; and 15
- (c) the immigration status of those victims of human trafficking for whom there has been a conclusive determination that the person is a victim of trafficking in human beings who are receiving assistance and support beyond the relevant period.
- (9) Before making a report under subsection (1), the Secretary of State must publish a report on or before 4 September 2019 on progress made towards preparing legislation implementing a pension for seriously injured victims and survivors of Troubles-related incidents. 20
- (10) Before making a report under subsection (1), the Secretary of State must publish a report on or before 4 September 2019 on progress made towards implementing the recommendations made by the Report of the Inquiry into Historical Institutional Abuse in Northern Ireland between 1922 and 1995, including the establishment of a publicly funded compensation scheme under an HIA Redress Board, distinct from the Northern Ireland Criminal Injuries Compensation Scheme 2009. 25 30
- (11) Before making a report under subsection (1), the Secretary of State must publish a report on or before 4 September 2019 on progress made towards preparing legislation confirming the application of the Armed Forces Covenant in the provision of public services in Northern Ireland.
- (12) Before making a report under subsection (1), the Secretary of State must publish a report on or before 4 September 2019 on whether the definition of “victim” in Article 3 of the Victims and Survivors (Northern Ireland) Order 2006 (S.I. 2006/2953 (N.I. 17)) should be revised to apply only to a person who is injured or affected wholly through the actions of another person. 35
- (13) For the purposes of this section an Executive is formed once the offices of the First Minister, deputy First Minister and the Northern Ireland Ministers are all filled. 40
- 4 Law on gambling and support for those experiencing problem gambling in Northern Ireland: debate**
- (1) A Minister of the Crown must, within the period of two sitting days beginning with the first sitting day on or after the day on which the report on gambling in Northern Ireland mentioned in section 3 is published, make arrangements for – 45

- (a) a motion to the effect that the House of Commons has approved that report to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the relevant report mentioned in section 3 is published, and
- (b) a motion for the House of Lords to take note of the report mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the relevant report mentioned in section 3 is published. 5
- (2) In this section –
- “Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day); 10
- “Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day). 15
- 5 Assistance and support for victims of human trafficking in Northern Ireland: debate**
- (1) A Minister of the Crown must, within the period of two sitting days beginning with the first sitting day on or after the day on which the report on assistance and support for victims of human trafficking in Northern Ireland mentioned in section 3 is published, make arrangements for – 20
- (a) a motion to the effect that the House of Commons has approved that report to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the relevant report mentioned in section 3 is published, and 25
- (b) a motion for the House of Lords to take note of the report mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the relevant report mentioned in section 3 is published.
- (2) In this section – 30
- “Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);
- “Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day). 35
- 6 Pension for victims and survivors of Troubles-related incidents: debate**
- (1) A Minister of the Crown must, within the period of two sitting days beginning with the first sitting day on or after the day on which the report on progress made towards preparing legislation to implement a pension for seriously injured victims and survivors of Troubles-related incidents mentioned in section 3 is published, make arrangements for – 40
- (a) a motion to the effect that the House of Commons has approved that report to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the relevant report mentioned in section 3 is published, and 45
- (b) a motion for the House of Lords to take note of the report mentioned in paragraph (a) to be moved in that House by a Minister of the Crown

within the period of seven Lords sitting days beginning with the day on which the relevant report mentioned in section 3 is published.

(2) In this section –

“Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);

“Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day).

7 Historical institutional abuse in Northern Ireland: debate 10

(1) A Minister of the Crown must, within the period of two sitting days beginning with the first sitting day on or after the day on which the report on progress made towards implementing the recommendations made by the Report of the Inquiry into Historical Institutional Abuse in Northern Ireland between 1922 and 1995 is published, make arrangements for –

(a) a motion to the effect that the House of Commons has approved that report to be moved in that House by a Minister of the Crown within the period of seven Commons sitting days beginning with the day on which the relevant report mentioned in section 3 is published, and

(b) a motion for the House of Lords to take note of the report mentioned in paragraph (a) to be moved in that House by a Minister of the Crown within the period of seven Lords sitting days beginning with the day on which the relevant report mentioned in section 3 is published.

(2) In this section –

“Commons sitting day” means a day on which the House of Commons is sitting (and a day is only a day on which the House of Commons is sitting if the House begins to sit on that day);

“Lords sitting day” means a day on which the House of Lords is sitting (and a day is only a day on which the House of Lords is sitting if the House begins to sit on that day).

Duties to make regulations

8 Marriage of same-sex couples in Northern Ireland

(1) The Secretary of State must make regulations to change the law relating to marriage in Northern Ireland to provide that marriage between same-sex couples is lawful.

(2) Regulations under this section must be in force no later than 21 October 2019, subject to subsections (3) and (4).

(3) A statutory instrument containing regulations under subsection (1) –

(a) must be laid before both Houses of Parliament;

(b) is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) If a Northern Ireland Executive is formed before the regulations under this section come into force, any regulations made under this section and any extant obligations arising under subsection (1) shall cease to have effect.

9 International obligations in respect of CEDAW

- (1) In accordance with the requirements of section 26 of the Northern Ireland Act 1998 regarding international obligations, the Secretary of State must make regulations by statutory instrument to give effect to the recommendations of the Report of the Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women. 5
- (2) Regulations under this section must come into force by 21 October 2019, subject to subsections (3) and (4).
- (3) A statutory instrument containing regulations under subsection (1) – 10
 - (a) must be laid before both Houses of Parliament;
 - (b) is subject to annulment in pursuance of a resolution of either House of Parliament.
- (4) If a Northern Ireland Executive is formed before 21 October 2019, any extant obligations arising under subsection (1) shall cease to have effect. 15

General

10 Extent, commencement and short title

- (1) This Act extends to England and Wales, Scotland and Northern Ireland.
- (2) This Act comes into force on the day on which it is passed.
- (3) This Act may be cited as the Northern Ireland (Executive Formation) Act 2019. 20

Northern Ireland (Executive Formation) Bill

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To extend the period for forming an Executive under section 1(1) of the Northern Ireland (Executive Formation and Exercise of Functions) Act 2018 and to impose a duty on the Secretary of State to report on progress towards the formation of an Executive in Northern Ireland.

Brought from the Commons on 9th July 2019

Ordered to be Printed, 9th July 2019

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