

## ORDER OF THE SECRETARY OF STATE

### Civil Service (Northern Ireland) Order 1999

In exercise of the powers conferred on me by Letters Patent of Her Majesty dated 20th December 1973 and of all other powers enabling me in that behalf, I hereby make the following Order:—

#### *Title and commencement*

1. This Order may be cited as the Civil Service (Northern Ireland) Order 1999 and shall come into operation forthwith.

#### *Revocation*

2. The Civil Service (Northern Ireland) Order 1996 (“the 1996 Order”)(a) and the Civil Service (Amendment) (Northern Ireland) Order 1998 (“the 1998 Order”)(b) are hereby revoked.

#### *Interpretation*

3.—(1) The Interpretation Act (Northern Ireland) 1954(c) shall apply to this Order as if this Order were an enactment, and for the purposes of that Act, as applied by this paragraph, the 1996 Order shall be deemed to be an enactment revoked by this Order.

(2) Without prejudice to paragraph (1), any reference in an instrument or other document to a provision of the 1996 Order to which there is a corresponding provision in this Order shall be construed as a reference to that corresponding provision in this Order.

(3) In this Order, except where otherwise expressly provided—

“the 1996 Order” shall be construed in accordance with Article 2;

“civil servant” means any person serving in a situation in the Civil Service;

“the Civil Service” means the Northern Ireland Civil Service;

“the Department” means the Department of Finance and Personnel;

“enactment” has the meaning assigned to it by section 1(b) of the Interpretation Act (Northern Ireland) 1954.

#### *Functions of the Department*

4.—(1) The Department shall continue to be responsible for the general management and control of the Civil Service.

(2) The Department may make regulations or give directions—

(a) with respect to the number and grading of posts in the Civil Service and the employment of persons therein, including regulations or directions with respect to remuneration, expenses, allowances, or

(a) The 1996 Order was printed in the Belfast Gazette on 20th December 1996

(b) The 1998 Order was printed in the Belfast Gazette on 31st July 1998

(c) 1954 c. 33 (N.I.)

- other conditions of service, classification or re-classification of civil servants;
- (b) with respect to the conduct of civil servants, including the making of the Code of Ethics;
- (c) relating to the recruitment of persons to situations in the Civil Service, including regulations or directions prescribing the requirements for appointment to such situations.
- (3) The Department may investigate, or provide for the investigation of, matters relevant to the determination by the Department of the remuneration, conditions of service, classification or re-classification of civil servants, or such classes of civil servants as it may designate, and may establish advisory or joint councils or committees.
- (4) The Department shall exercise its power under paragraph (2)(c) in a manner consistent with Article 3(1)(a) of the Civil Service Commissioners (Northern Ireland) Order 1999.

Northern Ireland Office  
2nd March 1999

*Marjorie Mowlam*  
One of Her Majesty's  
Principal Secretaries of State

## EXPLANATORY NOTE

*(This note is not part of the Order.)*

The Civil Service (Northern Ireland) Order 1996, as amended, made provision for the responsibilities, in relation to the Northern Ireland Civil Service ("the Civil Service"), of both the Department of Finance and Personnel ("the Department") and the Civil Service Commissioners for Northern Ireland. This Order revokes the Civil Service (Northern Ireland) Order 1996 and the Civil Service (Amendment) (Northern Ireland) Order 1998, and re-enacts those of their provisions which relate to the functions of the Department.

The principal provision of this Order is Article 4, which provides that the Department shall continue to be responsible for the general management and control of the Civil Service, and empowers the Department to make regulations or give directions relating to the employment and conditions of service of persons in the Civil Service, including regulations or directions prescribing the requirements for appointment to situations in the Civil Service and the making of a Code of Ethics.

**ORDER OF THE SECRETARY OF STATE CIVIL SERVICE COMMISSIONERS  
(NORTHERN IRELAND) ORDER 1999**

In exercise of the powers conferred on me by Letters Patent of Her Majesty dated 20 December 1973 and of all other powers enabling me in that behalf, I hereby make the following Order:-

**1. TITLE AND COMMENCEMENT**

1. This Order may be cited as the Civil Service Commissioners (Northern Ireland) Order 1999 and shall come into operation forthwith.

**2. INTERPRETATION**

1. The Interpretation Act (Northern Ireland) 1954(a) shall apply to this Order as if this Order were an enactment, and for the purposes of that Act, as applied by this paragraph, the 1996 Order shall be deemed to be an enactment revoked by this Order.
2. Without prejudice to paragraph (1), any reference in an instrument or other document to a provision of the 1996 Order to which there is a corresponding provision in this Order shall be construed as a reference to that corresponding provision in this Order.
3. In this Order, except where otherwise expressly provided –
  - "the 1996 Order" means the Civil Service (Northern Ireland) Order 1996 (b);
  - "appointed to a situation in the Civil Service" means appointed to a situation in the Civil Service, other than by promotion or transfer from within the Civil Service, where that promotion or transfer was not made following competition for the situation open to applicants from within and without the Civil Service and "appointment to any situation in the Senior Civil Service" shall be construed accordingly;
  - "civil servant" means any person serving in a situation in the Civil Service;
  - "the Civil Service" means the Northern Ireland Civil Service;
  - "the Code of Ethics" means a Code of Ethics made under Article 4(2)(b) of the Civil Service (Northern Ireland) Order 1999;
  - "the Commissioners" means the persons for the time being appointed by Her Majesty to be Civil Service Commissioners for Northern Ireland;
  - "the Department" means the Department of Finance and Personnel;
  - "enactment" has the meaning assigned to it by Section 1(b) of the Interpretation Act (Northern Ireland) 1954.

4. In this Order any reference to the New Northern Ireland Assembly shall, after the coming into operation of Parts II and III of the Northern Ireland Act 1998, be construed as a reference to the Northern Ireland Assembly.

### **3. SELECTION ON MERIT**

1. Except as otherwise expressly provided by or under this Order, a person shall not be appointed to a situation in the Civil Service unless:
  - (a) the selection of that person for appointment was made on merit on the basis of fair and open competition; and
  - (b) the person appointed satisfies such requirements for appointment as may be prescribed by the Department under Article 4(2)(c) of the Civil Service (Northern Ireland) Order 1999.
2. Paragraph (1)(a) shall not apply where an appointment is made to a situation in the Civil Service:
  - (a) directly by Her Majesty; or
  - (b) subject to paragraph (4), by any relevant member for the purpose only of providing advice to him during a period terminating on or before the next dissolution of the New Northern Ireland Assembly.
3. In paragraphs (2)(b) and (4) "relevant member" means any of the following persons, that is to say -
  - (a) the Presiding Officer of the New Northern Ireland Assembly;
  - (b) the First Minister or Deputy First Minister; or
  - (c) any other member of the Executive Committee of that Assembly.
4. The First Minister and the Deputy First Minister may each appoint up to three persons to hold, at any one time, a situation under paragraph (2)(b) and any other relevant member may appoint one person to hold, at any one time, such a situation.
5. The terms and conditions of employment of any appointment under paragraph (2)(b) shall be in accordance with such terms and conditions of employment as shall be prescribed by the Department of Finance and Personnel in regulations or directions.

### **4. FUNCTIONS OF THE COMMISSIONERS**

1. The Commissioners shall maintain the principle of selection on merit on the basis of fair and open competition in relation to selection for appointment.
2. Without prejudice to Article 3(2), the Commissioners may, with the approval of the Secretary of State, prescribe, in General Regulations, or by directions, the

circumstances in which the principle of selection on merit on the basis of fair and open competition shall not apply.

3. The Commissioners shall prescribe and publish a recruitment code on the interpretation and application of the principle of selection on merit on the basis of fair and open competition, including the circumstances in which any exceptions to that principle prescribed by the Commissioners, in pursuance of General Regulations or directions made under paragraph (2), may be exercised.
4. The Commissioners shall audit recruitment policies and practices followed in making appointments to situations in the Civil Service to establish whether the recruitment code is being observed.
5. The Commissioners may require the publication of such information as they may specify relating to recruitment and to the use of permitted exceptions to the principle of selection on merit on the basis of fair and open competition.

## **5. APPEALS UNDER THE CODE OF ETHICS**

1. The Commissioners may consider and determine appeals to them by a civil servant under the Code of Ethics.
2. For the purposes of paragraph (1), the Commissioners may -
  - (a) regulate their own procedure;
  - (b) require the parties to any appeal or to any investigation occasioned by an appeal to provide such information and other assistance as the Commissioners think necessary or appropriate; and
  - (c) make recommendations.
3. The Commissioners -
  - (a) shall publish annually a report of the number of appeals made to them under the Code of Ethics together with summary information as to the nature of such appeals; and
  - (b) may make such other reports on appeals to them under the Code of Ethics as they think fit.

## **6. THE COMMISSIONERS' APPROVAL FOR APPOINTMENT**

1. Other than an appointment referred to in Article 3(2), no appointment shall be made to any situation in the Senior Civil Service, or to any situation prescribed by General Regulations or by directions for the purposes of this Article by the Commissioners with the approval of the Secretary of State, without the written approval of the Commissioners, whose decision shall be final.

## **7. EXERCISE OF THE COMMISSIONERS' FUNCTIONS**

1. The functions of the Commissioners may be exercised by any one or more than one of the Commissioners and references to the Commissioners shall be construed accordingly.
2. The Secretary of State may assign officers to act as secretary and deputy secretary to the Commissioners and shall afford to the Commissioners such assistance as they may reasonably require for the discharge of their functions.
3. The Commissioners may, in relation to such matters, and to such extent as they may specify, authorise their secretary, deputy secretary or any other person to act on their behalf.
4. A Commissioner may be paid such remuneration and allowances as the Secretary of State may determine.

**Marjorie Mowlam**  
**Northern Ireland Office**

**2 March 1999**  
**One of Her Majesty's Principal Secretaries of State**



# Civil Service (Special Advisers) Act (Northern Ireland) 2013

CHAPTER 8

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# Civil Service (Special Advisers) Act (Northern Ireland) 2013

## CHAPTER 8

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# Civil Service (Special Advisers) Act (Northern Ireland) 2013

## 2013 CHAPTER 8

An Act to amend the law on special advisers in the Northern Ireland Civil Service. [8th July 2013]

**B**E IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

### Meaning of “special adviser”

- 1.—(1) A person (P) is a special adviser if subsections (2) to (4) apply.
- (2) P is appointed to a position in the Northern Ireland Civil Service by a Minister.
- (3) P is appointed only in order to advise the Minister.
- (4) The terms and conditions of the appointment provide that P will cease to hold that position on or before the date the Minister ceases to hold office.

### Special advisers: serious criminal convictions

- 2.—(1) Subject to subsection (2) and section 3, a person is not eligible for appointment as a special adviser if the person has a serious criminal conviction.
- (2) Where a Minister proposes to appoint as a special adviser a person who has a serious criminal conviction, that person may refer the proposed appointment to the Department of Finance and Personnel.
- (3) Where a person who holds an appointment as a special adviser incurs a serious criminal conviction, that person’s appointment terminates immediately by virtue of this Act.
- (4) Where on the date of coming into operation of this subsection a person—

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(a) holds an appointment as a special adviser, and  
 (b) has before that date incurred a serious criminal conviction,  
 that person's appointment terminates immediately by virtue of this Act.

(5) But a person to whom subsection (4) will apply may refer the appointment to the Department, within 21 days of this subsection coming into operation.

(6) A Minister must inform the Department in writing whether any special adviser appointed by the Minister has a serious criminal conviction.

### **Determination of eligibility of special advisers by review panel**

**3.**—(1) This section applies where an appointment, or proposed appointment, of a person as a special adviser is referred to the Department under section 2(5) or (2).

(2) The Department must, within 14 days of the referral, establish a review panel and refer the matter to it.

(3) The review panel must determine whether the person is eligible for appointment as, or to continue to hold appointment as, a special adviser.

(4) The person is only eligible if the review panel is satisfied that there are exceptional circumstances justifying it—

- (a) after having regard to the matters set out in subsection (5), and
- (b) in the case of a proposed appointment, after taking account of the outcome of the vetting procedures mentioned in subsection (6).

(5) Those matters are—

- (a) whether the person has shown contrition for the offence to which the serious criminal conviction relates,
- (b) whether the person has taken all reasonable steps to assist in the investigation and prosecution of all other persons connected with the commission of the offence,
- (c) the views of any victim of the offence, or where a victim has died, the views of any close family member of the victim.

(6) The Department must arrange for the proposed appointee to be the subject of the same vetting procedures as apply to the appointment of persons as Senior Civil Servants to the Northern Ireland Civil Service.

(7) The Department must—

- (a) appoint independent persons to be members of the review panel,
- (b) pay those persons such fees, allowances or expenses as appear appropriate,
- (c) provide the review panel with staff, accommodation or other facilities as appear appropriate.

(8) A review panel may regulate its own procedure.

(9) A review panel only remains in existence for so long as is necessary for it to exercise its functions.

**Appeals against review panel's determinations**

4.—(1) Where a person who is the subject of a determination of a review panel is aggrieved by that determination, that person may appeal to the High Court.

(2) The appeal can only be brought on the ground that it was not reasonable for the review panel to make that determination.

(3) The appeal must be brought within 21 days from the day on which the review panel made the determination.

(4) On hearing the appeal, the High Court may make such order as it thinks fit in respect of a person's eligibility for appointment as, or to continue to hold appointment as, a special adviser.

**Meaning of "serious criminal conviction"**

5.—(1) In this Act "serious criminal conviction" means a conviction for an offence for which—

- (a) a sentence of immediate imprisonment of 5 years or more was imposed,
- (b) a sentence of imprisonment for life was imposed,
- (c) an indeterminate custodial sentence under Article 13 of the Criminal Justice (Northern Ireland) Order 2008 was imposed,
- (d) a sentence of detention during the pleasure of the Secretary of State or the Minister of Justice, or for life, or for 5 years or more, was imposed under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (children convicted of grave crimes), or
- (e) a sentence of detention during the pleasure of the Governor or the Secretary of State, or for life, or for 5 years or more, was imposed under section 73 of the Children and Young Persons Act (Northern Ireland) 1968 (children convicted of grave crimes).

(2) This section applies whether the person—

- (a) was convicted in Northern Ireland or elsewhere,
- (b) was convicted before or after the coming into operation of this section.

(3) Where the person was convicted in a country or territory outside Northern Ireland, the references in subsection (1)(c), (d) and (e) to sentences are to be read as references to equivalent sentences in the country or territory in which the person was convicted.

**Annual report**

6.—(1) The Department must, as soon as possible after the end of each financial year, issue a report about special advisers employed at any time during that year.

(2) The Minister of Finance and Personnel must lay the report before the Assembly as soon as possible after it has been issued.

(3) Without prejudice to the generality of subsection (1), a report under this section must include information about the number and cost of the special advisers.

**Code of conduct**

7.—(1) The Department must issue a code of conduct for special advisers within 2 months of this section coming into operation.

(2) Without prejudice to the generality of subsection (1), the code must provide that special advisers must not—

- (a) authorise the expenditure of public funds,
- (b) exercise any power in relation to the management of any part of the Northern Ireland Civil Service, or
- (c) otherwise exercise any power conferred by or under any statutory provision, or any power under the prerogative.

(3) The code may permit a special adviser to exercise any power within subsection (2)(b) in relation to another special adviser.

(4) The Minister of Finance and Personnel must lay the code before the Assembly as soon as possible after it has been issued.

(5) The code forms part of the terms and conditions of appointment of special advisers.

**Code for appointments**

8.—(1) The Department must issue a code governing the appointment of special advisers within 2 months of this section coming into operation.

(2) Where a Minister proposes to appoint a special adviser, such an appointment shall be subject to the terms of the code.

(3) Without prejudice to the generality of subsection (1), the code must provide that persons proposed for appointment as special advisers—

- (a) must be subject to the same vetting procedures as persons to be appointed as Senior Civil Servants to the Northern Ireland Civil Service,
- (b) must not be subject to further vetting procedures if they have been subject to vetting procedures in accordance with section 3.

(4) The Minister of Finance and Personnel must lay the code before the Assembly as soon as possible after it has been issued.

(5) All persons exercising functions in respect of the appointment of special advisers must have regard to the code.

**Advisers to the Presiding Officer**

9.—(1) In Article 3 of the Civil Service Commissioners (Northern Ireland) Order 1999, paragraph (2)(b) (which excludes certain appointments by relevant members from the requirement that persons are to be selected for appointment to the Northern Ireland Civil Service on merit) shall cease to apply in relation to the Presiding Officer of the Assembly.

(2) Accordingly, in paragraph (3) of that Article, sub-paragraph (a) shall cease to have effect.

**Interpretation**

10. In this Act—

“the Department” means the Department of Finance and Personnel

“the Minister” means

- (a) the First Minister or deputy First Minister,
- (b) a Northern Ireland Minister,
- (c) a junior Minister,

and the words in paragraphs (a), (b) and (c) have the same meaning as in the Northern Ireland Act 1998,

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

### **Transitional provisions**

**11.** The Schedule (transitional provisions: termination payments) has effect.

### **Commencement**

**12.**—(1) Sections 1, 2(5), 3, 4, 5, 7, 8, 9, 10, 12 and 13 come into operation on the day on which the Act receives Royal Assent.

(2) Section 2(6) comes into operation at the end of the period of 1 month after the day on which the Act receives Royal Assent.

(3) The other provisions of this Act come into operation at the end of the period of 2 months after the day on which the Act receives Royal Assent.

### **Short title**

**13.** This Act may be cited as the Civil Service (Special Advisers) Act (Northern Ireland) 2013.

Section 11.

## SCHEDULE

## TRANSITIONAL PROVISIONS: TERMINATION PAYMENTS

1. A special adviser whose appointment is terminated by virtue of section 2(4) is entitled to a termination payment from the Department.
2. The termination payment is an amount equivalent to the greater of—
  - (a) 3 months' salary, or
  - (b) where the special adviser is entitled to a contractual severance payment, that payment.
3. A contractual severance payment means a payment, to which the special adviser would be entitled under the terms and conditions of the appointment, if the appointment were terminated because the Minister who appointed the special adviser ceased to be a Minister.
4. No termination payment under paragraph 2(b) shall exceed an amount equivalent to 6 months' salary.

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