

Research Briefing

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# Northern Ireland (Executive Formation) Bill 2023-24



## Summary

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## Summary

The [Northern Ireland \(Executive Formation\) Bill 2023-24](#) was introduced in the House of Commons on Wednesday 24 January 2024. All its Commons stages are expected to take place the same day.

Currently, the Secretary of State for Northern Ireland is under a legal obligation to call a further Northern Ireland Assembly election. This is because the deadline (18 January 2024) for the formation of a Northern Ireland Executive provided for under [section 1](#) of the Northern Ireland (Executive Formation and Organ and Tissue Donation) Act 2023 has passed without ministerial offices being filled.

The Bill seeks retrospectively to extend the period for the formation of an Executive from 18 January 2024 to 8 February 2024. This means that the Secretary of State will no longer be obliged to call an election until after 8 February.

According to the Bill's [Explanatory Notes](#), the Government believes “providing a short extension to the Executive Formation period will provide the opportunity to try and imminently restore devolved Governance in Northern Ireland”.

The text of the Northern Ireland (Executive Formation) Bill and its [Explanatory Notes](#) are available on the [Government website](#) (with the permission of Mr Speaker). They will appear on the Bill pages on the Parliamentary website after the Bill's formal presentation and first reading.

# 1 Background

On 3 February 2022 [Paul Givan resigned](#) as First Minister of Northern Ireland, effective from midnight. This meant deputy First Minister Michelle O'Neill also relinquished her post. The Northern Ireland Executive was no longer able to meet as it was chaired jointly by the First and deputy First Ministers. Mr Givan cited ongoing disagreements with the UK Government regarding the [Ireland/Northern Ireland Protocol](#) for his decision to stand down.

Under the law as it then stood, Brandon Lewis, the then Secretary of State for Northern Ireland, was required to name a date for an election if Northern Ireland ministers had not been appointed within 14 days of an Assembly election, or if the posts of First and/or deputy First Minister had become vacant (as in this case) and remained unfilled after seven days. This meant a deadline of 12.01am on Friday 11 February.

## 1.1 Legislative provision

However, the subsequent [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Act 2022](#), which received Royal Assent on 9 February 2022, meant the Secretary of State was no longer under an immediate obligation to call an election.

The Act replaced the existing time limits with up to four six-week periods for appointing Northern Ireland ministers. It also allowed ministers to remain in office following an election for up to 24 weeks, and for up to 48 weeks if the First or deputy First Minister ceased to hold office (through, for example, resignation). These “caretaker” ministers could not take any new decisions.<sup>1</sup>

The amended time limit for the appointment of ministers meant there was a new deadline of 28 October 2022 for the formation of a Northern Ireland Executive, following an election on 5 May 2022 and the initial eight-day period to nominate the First and deputy First Ministers.

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<sup>1</sup> Commons Library research briefing CBP9213, [Northern Ireland \(Ministers, Elections and Petitions of Concern\) Bill 2021-22](#).

## 1.2

## May 2022 Assembly election

The Northern Ireland Assembly election took place on 5 May 2022. Sinn Féin emerged as the largest party and the DUP as the second largest.<sup>2</sup> This meant Sinn Féin was entitled to nominate a First Minister and the DUP a deputy First Minister.<sup>3</sup>

### What happens at the first Assembly meeting?

[Section 31\(4\)](#) of the Northern Ireland Act 1998 provides that, following an election, the Assembly “shall meet within the period of eight days beginning with the day of the poll at which it is elected”.

[Section 39](#) provides that at this meeting, the Assembly “shall as its first business elect from among its members a Presiding Officer and deputies”. These are known as the Speaker and (three) Deputy Speakers.<sup>4</sup> The procedure at the first meeting of a new Assembly is:

- Members of the Legislative Assembly (MLAs) take their seats by signing the Assembly’s Roll of Membership;
- After signing the Roll an MLA may enter in the Roll a designation of identity, being “Nationalist”, “Unionist” or “Other”;<sup>5</sup>
- Once all MLAs have taken their seats, registered their party affiliation and designation of identity, the Assembly proceeds to elect a Speaker.<sup>6</sup>

Under [section 39\(7\)](#) of the Northern Ireland Act 1998, a person shall not be elected Speaker “without cross-community support”,<sup>7</sup> either parallel consent or a weighted majority.<sup>8</sup> This means that a successful Speaker needs support from both Unionist and Nationalist-designating MLAs. If the Assembly is unable to elect a Speaker on this basis, then it cannot proceed to other business, including the nomination of a First and deputy First Minister and the appointment of other Executive ministers.

<sup>2</sup> Commons Library research briefing CBP9549, [Northern Ireland Assembly Elections: 2022](#).

<sup>3</sup> Commons Library Insight, [Northern Ireland elections: How will an Executive be formed?](#)

<sup>4</sup> The “outgoing” Speaker, or an Acting Speaker, chairs proceedings. An Acting Speaker will be “the oldest member present at the meeting”.

<sup>5</sup> An MLA who does not register a designation of identity shall be deemed “Other” for the purposes of the Standing Orders and the Northern Ireland Act 1998.

<sup>6</sup> [Northern Ireland Assembly Standing Orders as amended March 2010](#), Northern Ireland Assembly website, paras 1-6.

<sup>7</sup> Northern Ireland Act 1998, [section 39\(7\)](#).

<sup>8</sup> Northern Ireland Act 1998, section 42. Parallel consent means a majority of those members present and voting, including a majority of the Unionist and Nationalist designations, while a weighted majority means 60% of members present and voting, including at least 40% from the Nationalist and Unionist designations.

## 1.3

### Attempts to elect a Speaker

Since the May 2022 Assembly election, there have been several attempts to elect a new Speaker:

#### Friday, 13 May 2022

The UUP MLA Mike Nesbitt received 28 votes to 26 to become the next Assembly Speaker, and SDLP MLA Patsy McGlone 62 votes to 25. Neither received the necessary level of cross-community support.

The Speaker told MLAs that as the Assembly had been “unable to elect a Speaker” then they could “proceed no further”.<sup>9</sup>

#### Monday, 30 May 2022

At the Assembly’s second “recall” meeting, Mike Nesbitt received 27 votes to 26 as Speaker and Patsy McGlone 53 to 26. As on 13 May, neither received sufficient cross-community support.<sup>10</sup>

#### Wednesday, 3 August 2022

At the Assembly’s third “recall” meeting, Mike Nesbitt received 18 votes to 21 as the next Speaker and Patsy McGlone 39 to 21. As on 20 May, neither received sufficient cross-community support.<sup>11</sup>

#### Thursday, 27 October 2022

At the Assembly’s fourth “recall” meeting, Patsy McGlone received 45 votes to 24 as the next Speaker and Mike Nesbitt 24 votes to 24. As on 3 August, neither received sufficient cross-community support.<sup>12</sup>

## 1.4

### The statutory deadline expires

The then statutory period for filling ministerial offices in Northern Ireland expired at midnight on 28 October 2022. This meant the Secretary of State for Northern Ireland once again fell under a legal obligation to propose a date for a further Assembly election “as soon as practicably possible and within 12 weeks”.<sup>13</sup> Caretaker ministers also ceased to hold office.

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<sup>9</sup> [Official Report: Friday 13 May 2022.](#)

<sup>10</sup> [Official Report: Monday 30 May 2022.](#)

<sup>11</sup> [Official Report: Wednesday 03 August 2022.](#)

<sup>12</sup> [Official Report: Thursday 27 October 2022.](#)

<sup>13</sup> [Secretary of State for NI, Rt Hon Chris Heaton-Harris MP](#), Northern Ireland Office, 28 October 2022.

In the absence of an Executive, the Secretary of State for Northern Ireland, Chris Heaton-Harris, said he would take “limited but necessary steps to protect public finances and the delivery of public services”.<sup>14</sup>

On 4 November 2022, the Secretary of State confirmed that an election would not take place in December.<sup>15</sup>

## 1.5

### Further legislative provision

The [Northern Ireland \(Executive Formation etc\) Bill 2022-23](#) was introduced to the House of Commons on Monday 21 November 2022. This sought to:

- Extend retrospectively the period for Executive formation by 6 weeks – from 28 October to 8 December 2022 – with the potential for a further 6-week extension to 19 January 2023, via Statutory Instrument
- Clarify the decision-making powers of “senior officers” (civil servants) of Northern Ireland Departments to manage the delivery of public services either until an Executive is reformed, or for 6 months from enactment of the Bill, whichever is sooner
- Provide for key public appointments to be made in the absence of Northern Ireland ministers
- Provide for action to be taken to reduce the salary of MLAs in the absence of a fully functioning Assembly and
- Enable the Secretary of State to set Northern Ireland’s domestic and non-domestic regional rates (equivalent to council tax and business rates in Great Britain) for the 2023/24 financial year via Statutory Instrument<sup>16</sup>

The [Northern Ireland \(Executive Formation etc\) Act 2022](#) received Royal Assent on 6 December 2022.

On 7 December, [The Northern Ireland \(Extension of Period for Making Ministerial Appointments\) Regulations 2022](#) were made by the Secretary of State for Northern Ireland. These extended the period for the appointment of Northern Ireland ministers until 19 January 2023.

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<sup>14</sup> [Secretary of State for NI, Rt Hon Chris Heaton-Harris MP](#), Northern Ireland Office, 28 October 2022. The “principle of consent” provides that any alteration to the constitutional status of Northern Ireland shall only take place with the consent of the people of Northern Ireland.

<sup>15</sup> [Secretary of State for NI provides update on election](#), Northern Ireland Office, 4 November 2022.

<sup>16</sup> Commons Library research briefing CBP9682, [Northern Ireland \(Executive Formation etc\) Bill 2022-23](#).



On 8 December, the Secretary of State wrote to MLAs informing them that their pay would be reduced by 27.5% as of 1 January 2023.<sup>17</sup>

## 1.6 Further attempts to elect a Speaker

### Wednesday, 7 December 2022

At the Assembly's fifth "recall" meeting, Mike Nesbitt received 24 votes to 24 as the new Assembly Speaker and Patsy McGlone 50 votes to 24. As on 27 October, neither received sufficient cross-community support.<sup>18</sup>

### Tuesday, 14 February 2023

At the Assembly's sixth "recall" meeting, Mike Nesbitt received 25 votes to 26 as Speaker and Patsy McGlone 49 votes to 28. As on 7 December 2022, neither received sufficient cross-community support.<sup>19</sup>

## 1.7 Executive Formation Bill

The then extended deadline for the formation of a Northern Ireland Executive expired on 19 January 2023.

The [Northern Ireland \(Executive Formation\) Bill 2022-23](#) was introduced in the House of Commons on Thursday 9 February 2023. This sought to retrospectively extend the period for the formation of an Executive by 52 weeks from 19 January 2023 to 18 January 2024.<sup>20</sup>

What became the [Northern Ireland \(Executive Formation and Organ and Tissue Donation\) Act 2023](#) received Royal Assent on 28 February 2023.<sup>21</sup>

In the absence of an Executive, on 23 February the Secretary of State increased the Northern Ireland domestic regional rate (the equivalent of council tax) by 6% and froze the non-domestic regional rate (the equivalent of business rates) for the 2023/24 financial year.<sup>22</sup>

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<sup>17</sup> [Northern Ireland Secretary writes to MLAs to confirm pay cut from 1 January 2023](#), Northern Ireland Office, 8 December 2022.

<sup>18</sup> [Official Report: Wednesday 07 December 2022](#).

<sup>19</sup> [Official Report: Tuesday 14 February 2023](#).

<sup>20</sup> Commons Library research briefing CBP9725, [Northern Ireland \(Executive Formation\) Bill 2022-23](#).

<sup>21</sup> The Bill was amended (and thus renamed) to include provision for making regulations defining permitted material for transplantation in Northern Ireland under [section 3](#) of the Human Tissue Act 2004. See Lords Library Note 2023-0014, [Northern Ireland \(Executive Formation and Organ and Tissue Donation\) Bill: HL Bill 105 of 2022-23](#).

<sup>22</sup> [Secretary of State for Northern Ireland sets the NI Regional Rate](#), Northern Ireland Office, 23 February 2023.

## 1.8 The Windsor Framework and the “Stormont Brake”

The [Windsor Framework](#) was agreed between the European Union and UK on 27 February 2023.<sup>23</sup> An accompanying EU-UK [Political Declaration](#) referred to “a new emergency brake mechanism – the Stormont Brake”.<sup>24</sup>

The [Windsor Framework \(Democratic Scrutiny\) Regulations 2023](#) were published on 20 March and approved by the House of Commons on 22 March. These inserted a new [Schedule 6B](#) into the Northern Ireland Act 1998.<sup>25</sup>

## 1.9 Interim Arrangements Bill

The [Northern Ireland \(Interim Arrangements\) Bill 2022-23](#) was introduced to the House of Commons on Thursday 27 April 2023. This made “interim” arrangements in the continuing absence of a fully functioning Northern Ireland Assembly and Executive:

- Providing for senior civil servants in nine Northern Ireland Departments to continue to exercise certain functions when in the public interest, notwithstanding the ongoing lack of Northern Ireland ministers;
- Conferring on the Secretary of State for Northern Ireland the power to commission advice or request information from Northern Ireland Departments for the purpose of developing options for raising more public revenue in Northern Ireland, or otherwise improving the sustainability of public finances in Northern Ireland;
- Conferring on the Secretary of State the power to direct Northern Ireland Departments to carry out consultations for the same two purposes; and
- Requiring certain accounts, reports and other financial documents that must be laid in the Northern Ireland Assembly also to be laid in the UK Parliament when the Northern Ireland Assembly is not fully functioning.<sup>26</sup>

The [Northern Ireland \(Interim Arrangements\) Act 2023](#) received Royal Assent on 24 May 2023.

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<sup>23</sup> Commons Library research briefing CBP9736, [Northern Ireland Protocol: The Windsor Framework](#).

<sup>24</sup> [Political Declaration by the European Commission and the Government of the United Kingdom](#), HM Government, 27 February 2023.

<sup>25</sup> For a full analysis see Commons Library research briefing CBP9757, [Northern Ireland: The Stormont Brake](#).

<sup>26</sup> Commons Library research briefing CBP9782, [Northern Ireland \(Interim Arrangements\) Bill 2022-23](#).

## 1.10

# Northern Ireland Budget

A Budget would normally be the responsibility of the devolved Northern Ireland Assembly and Executive. In their absence, it has been necessary for the UK Parliament to make legislative provisions.

On 27 April 2023, the Secretary of State for Northern Ireland set a Budget for the 2023/24 financial year.<sup>27</sup> This required primary legislation at Westminster.

The Northern Ireland Budget (No. 2) Bill 2022-23 was introduced to the House of Commons on 29 June 2023. This authorised the use of certain resources for public services in Northern Ireland for the year ending 31 March 2024.<sup>28</sup>

The [Northern Ireland Budget \(No. 2\) Act 2023](#) received Royal Assent on 18 September 2023.

## 1.11

# Unionist concerns regarding the Protocol

Unionist concerns regarding the impact of the revised Northern Ireland Protocol persisted during 2023. Some argued that the newly created “Irish Sea border” undermined the Union between Great Britain and Northern Ireland and, specifically, that it was contrary to the free trade provisions of the 1800 Acts of Union.<sup>29</sup>

On 3 March 2023 Chris Heaton-Harris, the Secretary of State for Northern Ireland, said the UK Government was looking:

to bring forward amendments to the Northern Ireland Act of 1998 to provide further [...] Reassurances in law that Northern Ireland remains an integral part of the United Kingdom and it’s the government saying that in primary legislation which is what people are asking for.<sup>30</sup>

Speaking in Washington DC on 16 March 2023, the Secretary of State also referred to restoring Northern Ireland’s “rights under Article Six of the Act of Union”.<sup>31</sup>

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<sup>27</sup> [Northern Ireland Secretary announces 2023-24 Budget and contingency plans for governance](#), Northern Ireland Office, 27 April 2023.

<sup>28</sup> Commons Library research briefing CBP9826, [Northern Ireland Budget \(No. 2\) Bill 2022-23](#).

<sup>29</sup> See Union with Ireland Act 1800, [Article Sixth](#).

<sup>30</sup> [Windsor Framework: Unionists to get ‘legal reassurances’](#), BBC News online, 3 March 2023. Section 1 of the Northern Ireland Act 1998 hereby declares “that Northern Ireland in its entirety remains part of the United Kingdom and shall not cease to be so without the consent of a majority of the people of Northern Ireland”.

<sup>31</sup> [UK government to assure DUP on Northern Ireland’s status amid Supreme Court judgment concerns](#), News Letter, 16 March 2023.

## 1.12

## Northern Ireland Affairs Committee

On 31 October 2022 the Northern Ireland Affairs Committee (NIAC) launched an inquiry to examine the effectiveness of the institutions established under the Belfast/Good Friday Agreement.<sup>32</sup> NIAC's report was published on 4 December 2023. Its recommendations included:

- A formal, independently led review into the operation of the institutions of the Belfast/Good Friday Agreement, including the devolved institutions' "ability to provide effective and stable government in Northern Ireland, with broad cross-community inclusion";
- Legislation to amend the Northern Ireland Act 1998 so that the Speaker of the Northern Ireland Assembly is elected by MLAs on a supermajority basis of two-thirds;
- Legislation to amend the Northern Ireland Act 1998 so that the two holders of the (renamed) office of Joint First Minister are elected by the Assembly on a supermajority basis of two-thirds, with nominations open "to any two MLAs of any two parties who run on a joint slate";
- Establish a Northern Ireland Citizens' Assembly which would, as its first undertaking, examine the "issues of institutional reform discussed in this inquiry".<sup>33</sup>

## 1.13

## Roundtable talks

On Monday 11 December 2023 the five largest Northern Ireland parties met the Secretary of State at Hillsborough Castle to discuss public finances.

In a statement on 20 December, Mr Heaton-Harris provided details of "a new plan that reasonably and generously responds to the parties concerns and provides Northern Ireland Ministers with an offer for a restored executive worth in excess of £3bn". This comprised:

- A new funding model "reflecting the different levels of need in Northern Ireland" and which would see funding "uplifted through the Barnett Formula by 24% from 2024-2025";
- £584 million for "assistance with public sector pay";

<sup>32</sup> [Belfast/Good Friday Agreement inquiry launched](#), Northern Ireland Affairs Committee, 31 October 2022.

<sup>33</sup> [The effectiveness of the institutions of the Belfast/Good Friday Agreement](#), Northern Ireland Affairs Committee, pp73-80. Two DUP members of the committee filed a minority report dissenting from its recommendations.

- £1 billion to “stabilise Northern Ireland’s public services”;
- “[S]teps to address” concerns regarding “existing debt” if the Executive published and implemented a plan to deliver sustainable public finances and services;
- More than £30 million to “immediately start tackling health waiting lists”;
- An initial reserve claim of £15 million (which would not need to be repaid) following the Police Service of Northern Ireland data breach;<sup>34</sup>
- An enhanced investment zone in Northern Ireland worth more than £150 million.

Mr Heaton-Harris added that an incoming Executive would also have to increase revenue raised from its own powers (for example via the Regional Rate) and thanked the DUP for the way it had “engaged constructively” on talks regarding the Windsor Framework. He said: “From our perspective, those talks on all the issues of substance have reached a conclusion [...] It is now time for decisions to be made.”<sup>35</sup>

## 1.14

## Strikes and Assembly recall

Members of 15 trade unions across the public sector in Northern Ireland took part in a 24-hour “day of action” on Thursday 18 January. This was part of an ongoing dispute concerning pay and conditions. Those taking part included nurses, teachers, bus and train drivers, as well as police staff and civil servants.<sup>36</sup>

Following further one-on-one meetings with political parties in Northern Ireland at Hillsborough Castle on Monday 15 January 2024, the Secretary of State said it was “time for talking and debate to finish. It is time for Stormont to get back to work.” If, however, the deadline for Executive formation was to pass once again, Mr Heaton-Harris said he would “have various decisions to make” – including on “important matters that require primary legislation in Westminster” – and intended to “set out” his “next steps in due course”.<sup>37</sup>

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<sup>34</sup> [PSNI: Major data breach identifies thousands of officers and civilian staff](#), BBC News online, 8 August 2023.

<sup>35</sup> [Secretary of State statement at Hillsborough Castle, 19 December](#), Northern Ireland Office, 20 December 2023.

<sup>36</sup> [Everything you need to know ahead of NI day of strike action by thousands of public sector workers](#), Belfast Live website, 14 January 2024.

<sup>37</sup> [Secretary of State statement at Hillsborough Castle, 15 January](#), Northern Ireland Office, 15 January 2024.

Questioned in the House of Commons on Wednesday 17 January about the prospect of Direct Rule, the Secretary of State said there was:

no way this Government want to go down the route of direct rule, which would need primary legislation. We do not want to go down the route of joint authority either and we will not do so. We need to find an appropriate form to allow the Executive to reform, which is what we are working unbelievably hard on with our colleagues in Northern Ireland.<sup>38</sup>

## Wednesday, 17 January 2024

At the Assembly's seventh "recall" meeting on 17 January, Mike Nesbitt received 26 votes as Speaker and the same number against. Patsy McGlone received 50 votes for and 26 against. As at previous recall meetings, neither candidate received sufficient cross-community support so was not elected.<sup>39</sup>

## 1.15

## Further legislative provision

The statutory deadline for Executive formation passed at midnight on 18 January 2024.

In a statement on 19 January, the Secretary of State said:

Events in Northern Ireland this week have shown the urgent action which is required to address a whole range of issues facing Northern Ireland. I remain of the belief that a sitting Northern Ireland Executive is best placed to act quickly and effectively to resolve those issues.

In the absence of a sitting Northern Ireland Executive [...] I intend to introduce new legislation which will take a pragmatic, appropriate and limited approach to addressing the Executive Formation period and support Northern Ireland Departments to manage the immediate and evident challenges they face in stabilising public services and finances.<sup>40</sup>

Katy Hayward, Professor of Political Sociology at Queen's University Belfast, has referred to this as "sticking plaster emergency legislation".<sup>41</sup>

According to a report in the Belfast Telegraph, DUP party officers were due to decide on 19 January whether or not to support a restoration of the Executive, but the vote was called off after details of the meeting were leaked to the media.<sup>42</sup>

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<sup>38</sup> [HC Deb 17 January 2024 Vol 743 \[Restoration of Power Sharing\]](#)

<sup>39</sup> [Official Report: Wednesday 17 January 2024.](#)

<sup>40</sup> [Secretary of State's statement on the NI Executive Formation Deadline](#), Northern Ireland Office, 19 January 2024.

<sup>41</sup> [Northern Ireland is in acute crisis and treatment is being withheld](#), UK in a changing Europe, 18 January 2024.

<sup>42</sup> ['Sell-out' threat forced DUP to call off the vote on a return to power-sharing](#), Belfast Telegraph, 21 January 2024.

On the afternoon of 23 January, Mr Heaton-Harris [tweeted](#) that:

Tomorrow I will be introducing the Northern Ireland (Executive Formation) Bill to allow for the reformation of Stormont.

The Bill only has a single clause: to extend the period of time Stormont can legitimately come back until the 8th February.

I am committed to restoring devolution and significant progress has been made towards that objective. I believe that this Bill, with the constrained timescales, will be sufficient.

## 2 Northern Ireland (Executive Formation) Bill 2023-24

As the deadline provided for by the Northern Ireland (Executive Formation and Organ and Tissue Donation) Act 2023 has now passed without ministerial offices being filled, fresh legislation is necessary to avoid the legal requirement for a further Assembly election in Northern Ireland.

The Bill's Explanatory Notes state that:

Following consultation with the Northern Ireland political parties and the wider public after the end of the Executive formation period under the Northern Ireland (Executive Formation etc) Act 2022, the Government has assessed that an immediate election would not support the restoration of the devolved institutions. This assessment remains unchanged. Instead, providing a short extension to the Executive Formation period will provide the opportunity to try and imminently restore devolved Governance in Northern Ireland.<sup>43</sup>

### 2.1 Executive formation

The Northern Ireland (Executive Formation) Bill 2023-24 seeks retrospectively to extend the period in which an Executive is to be formed following a Northern Ireland Assembly election. The period will be extended from 18 January 2024 to 8 February 2024.

The period for Executive formation provided for in this Bill is not renewable, other than by further legislation.

### 2.2 Fast-tracking

The Government also intends to ask Parliament to expedite the Bill's progress. In its report on "fast-track" legislation, the House of Lords Constitution Committee recommended that the Government provide more information to justify such a move.<sup>44</sup> The Bill's Explanatory Notes include this information.<sup>45</sup>

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<sup>43</sup> [Explanatory Notes](#), para 11.

<sup>44</sup> House of Lords Constitution Committee, [Fast-track Legislation: Constitutional Implications and Safeguards](#), HL paper 116-I, para 186.

<sup>45</sup> [Explanatory Notes](#), para 11.



Due to the need to implement the Bill urgently, the Northern Ireland Affairs Committee has not scrutinised the Bill in draft. However, the Committee chair was “briefed before the Bill’s Commons stages”.<sup>46</sup>

The Bill does not entail any financial costs or charges, so neither a Money Resolution nor a Ways and Means Resolution are necessary.<sup>47</sup>

The House of Lords is also expected to consider all stages of the Bill on 24 January.<sup>48</sup>

## 2.3 Reaction to the Bill

According to BBC News online, the DUP said the deadline extension was “recognition that, whilst significant progress has been made, to date an agreement has not been reached”. A DUP spokesperson added:

We will continue to engage with the government as we seek to successfully finalise all the remaining outstanding issues between us. We are working to that end. The government knows our view that it is only when we have resolved the remaining outstanding issues that we will be able to bring about the necessary conditions for the return of devolved government.

The SDLP said it would try to amend that legislation to remove the “one-party veto” on restoring the Assembly and Executive. According to the BBC, the SDLP MPs Colum Eastwood and Claire Hanna will ask MPs to support changes to the rules governing the election of an Assembly Speaker so that it would only require the support of a two-thirds majority rather than cross-community consent. They will also ask MPs to support an amendment placing an obligation on Mr Heaton-Harris to deliver a pay award for public sector workers in the absence of devolution.

Michelle O’Neill, Sinn Féin’s leader in the Assembly, said it was “time for action”. She added: “My message to the DUP is to work with us, get round the executive table and make a difference to people’s lives.”<sup>49</sup>

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<sup>46</sup> [Explanatory Notes](#), para 17.

<sup>47</sup> House of Commons [Standing Order No 49](#) provides that any charge on the public revenue must be authorised by resolution of the House of Commons (a “money resolution”), but this rule does not apply to payments made out of the Consolidated Fund of Northern Ireland.

<sup>48</sup> House of Lords Library, [Northern Ireland \(Executive Formation\) Bill: Session 2023–24](#).

<sup>49</sup> [NI Assembly: Chris Heaton-Harris to extend election deadline again](#), BBC News online, 23 January 2024.

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## 3 The Bill – clause by clause analysis

The Northern Ireland (Executive Formation) Bill 2023-24 consists of two clauses.

### 3.1 Extension of period for making Ministerial appointments

**Clause 1** alters section 1(1) of the Northern Ireland (Executive Formation etc) Act 2022, which amended the effect of section 16A of the Northern Ireland Act 1998 during the post-election period which followed the Northern Ireland Assembly held on 5 May 2022.

The Clause substitutes “8 February 2024” for “18 January 2024”.<sup>50</sup>

**Clause 2** covers extent, commencement and the Bill’s short title.

The Bill will extend to England and Wales, Scotland and Northern Ireland.<sup>51</sup>

The Bill will come into force on the day on which it is passed.

Once it has received Royal Assent, the Act may be cited as the Northern Ireland (Executive Formation) Act 2024.

### 3.2 Compatibility with the European Convention on Human Rights

Under [Section 19](#) of the Human Rights Act 1998, the Secretary of State for Northern Ireland has made the following statement:

In my view, the provisions of the Northern Ireland (Executive Formation) Bill are compatible with Convention rights.

In addition, the [Northern Ireland Office](#) does not consider that the provisions of the Bill engage Convention rights.<sup>52</sup>

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<sup>50</sup> A date inserted via [section 1\(2\)\(b\)](#) of the Northern Ireland (Executive Formation and Organ and Tissue Donation) Act 2023.

<sup>51</sup> But only applies in Northern Ireland.

<sup>52</sup> [Explanatory Notes](#), paras 23 & 24.

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