



Reports Pursuant to Section 3(5) of the Northern Ireland (Executive Formation etc) Act 2019 Debate on 17 October 2019

On 17 October 2019, the House of Lords is due to debate a motion on reports laid under the Northern Ireland (Executive Formation etc) Act 2019.

Summary

The Northern Ireland (Executive Formation etc) Act 2019 requires the UK Government to lay reports before Parliament at regular intervals. The Act stipulates that these reports must include information on:

- progress made towards forming an Executive in Northern Ireland;
- progress made towards preparing legislation to provide for transparency of political donations and loans from 1 January 2014;
- the improvement of higher education provision in Northern Ireland and the establishment of a university, the principal campus of which is in Derry/Londonderry;
- 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;
- progress made towards developing new prosecution guidance for legacy cases of Troubles-related incidents, to take into account the lawfulness or otherwise of how the person who allegedly committed an offence was supplied with a deadly weapon; and
- 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.

As mandated by the Act, a first report on these topics was published on 4 September 2019 and a second report was published on 9 October 2019. Further reports on these topics must be published every 14 days from 9 October 2019 to 18 December 2019 or until an Executive is formed, whichever is sooner. The Act also requires that each House be given the opportunity to debate the reports within five days of their publication.

Further Measures Under the Northern Ireland (Executive Formation etc) Act 2019

If the Northern Ireland Executive is not restored by 21 October 2019, obligations under sections 8–10 of the Northern Ireland (Executive Formation etc) Act 2019 come into force. These provisions would require the UK Government to introduce secondary legislation to change the law in

Northern Ireland in the following ways:

- to extend same sex marriage and opposite sex civil partnerships to Northern Ireland by 13 January 2020;
- to give effect to recommendations set out in the United Nations Committee on the Elimination of all Forms of Discrimination Against Women report in respect of lawful access to abortion services by 31 March 2020; and
- to introduce a system of victims payments in Northern Ireland, to be in force by the end of May 2020, for people who have sustained an injury as a result of a Troubles-related incident.

In addition, if no Executive is in place, on 22 October 2019 certain sections of law relating to abortion will be repealed. This would mean that no criminal charges could be brought against women and girls who have an abortion or against those who provide and assist in the abortion, under certain provisions. There would also be a moratorium on criminal prosecutions in respect of an offence under those provisions.

On 7 October 2019, the Government stated that “it has always been the Government’s strong preference for decisions on sensitive, devolved matters such as these to be taken by the locally elected representatives of the people of Northern Ireland” and that it was continuing to work towards the restoration of the Northern Ireland Executive.

Formation of a Northern Ireland Executive and the Possibility of Direct Rule

In answer to a written question on 4 October 2019, the Secretary of State for Northern Ireland, Julian Smith, said that “the parties remain engaged and are demonstrating a willingness to find solutions to the remaining critical issues” obstructing the restoration of the Executive. However, it would be necessary for there to be “a renewed determination to find agreement” if the process is to conclude in the coming weeks.

In the report published on 9 October 2019, Julian Smith stated that “if an accommodation cannot be reached before 31 October [2019] and the UK leaves the EU without a deal in place, Northern Ireland will need alternative decision-making arrangements”. Under the current legislative framework, the UK Government can legislate in devolved areas and has been doing so in the absence of an Executive. However, while competence is still devolved this must be done through primary legislation. Suspending devolution and imposing direct rule would allow UK ministers to direct Northern Ireland departments and legislate by secondary legislation.

Key Documents

- Northern Ireland Office, [Report Pursuant to Section 3\(5\) of the Northern Ireland \(Executive Formation etc\) Act 2019](#), 9 October 2019

Report mandated by the Northern Ireland (Executive Formation etc) Act 2019 on progress made towards forming a Northern Ireland Executive, and other matters.

- Northern Ireland Office, [Report Pursuant to Section 3\(1\), 3\(6\), 3\(7\), 3\(8\), 3\(9\) and 3\(10\) of the Northern Ireland Executive Formation etc\) Act 2019](#), 4 September 2019

First report mandated by the Northern Ireland (Executive Formation etc) Act 2019 on progress made towards forming a Northern Ireland Executive, and other matters.

Parliamentary Debate, Statements and Questions

- [Debate on 'Northern Ireland \(Executive Formation etc\) Act 2019 Section 3\(2\)'](#), HC Hansard, 9 September 2019, cols 584–609
- [Debate on 'Report Pursuant to Sections 3\(1\), 3\(6\), 3\(7\), 3\(8\), 3\(9\) and 3\(10\) the Northern Ireland \(Executive Formation etc\) Act 2019'](#), HL Hansard, 9 September 2019, cols 1356–98
- House of Commons, '[Written Statement: Publication of Reports Under the Northern Ireland \(Executive Formation etc\) Act 2019](#)', 4 September 2019, HCWS1815

Further Information

- United Nations Committee on the Elimination of Discrimination against Women, [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](#), 23 February 2018
- House of Lords Library, [Northern Ireland \(Executive Formation\) Bill: Briefing for Lords Stages](#), 10 July 2019

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