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The Northern Ireland (St Andrews Agreement) (No 2) Bill

Bill 84 of 2006-07

This short Bill is designed to extend the deadline for the restoration of devolution set out in the *Northern Ireland (St Andrews Agreement) Act 2006*, which received royal assent in November 2006. That Act set a target date of 26 March 2007 for the Northern Ireland Assembly to create a power-sharing Executive; if no Executive were formed, then the Assembly would be dissolved immediately. Elections were held for the Assembly on 7 March 2007 and the two largest parties in the Assembly were the Democratic Unionist Party and Sinn Fein. The leaders of both parties agreed to form an Executive on 8 May 2007 in a meeting on 26 March 2007. This Bill is designed to prevent the immediate dissolution of the Assembly, and sets a new target date of 8 May, by substituting this new timetable into the *Northern Ireland (St Andrews Agreement) Act 2006*.

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Summary of main points

The Northern Ireland Assembly was first elected in July 1998, but devolution was suspended on 14 October 2002, under the terms of the *Northern Ireland Act 2000*. The UK Government, working with the Irish Government and the Northern Ireland parties, has made a number of attempts to restore devolution since that date. Assembly elections took place on 26 November 2003, but the Assembly did not convene, since it remained suspended. Assembly Members continued to receive roughly 70 per cent of their pay and receive allowances.

The *Northern Ireland Act 2006* provided for the restoration of devolved government through the selection of ministers to form the Executive. The Act specified that the selection had to occur by 25 November 2006. The Assembly elected in 2003 finally convened in May 2006 solely for the purpose of determining the ministers, but without any legislative powers. The Act gave the Secretary of State powers to bring forward an order under the *Northern Ireland Act 2000* to restore devolution once he was satisfied that the election of the First and Deputy First Minister had taken place satisfactorily. Should the Executive be formed, then the 2006 Act extended the term of the Assembly a further year, providing for elections in May 2008. If, on the other hand, no election took place by 25 November, the Secretary of State would dissolve the Assembly indefinitely, retaining the power to decide when or if elections should be held again. Salaries and allowances for Members of the Assembly would be terminated immediately.

Following the St Andrews Agreement of 11-13 October 2006, the *Northern Ireland (St Andrews Agreement) Act* removed the requirement to elect the First and Deputy First Minister by 25 November. Instead, the Assembly, in transitional mode, would prepare for a new target date of 26 March 2007 after elections scheduled for 7 March 2007. Salaries and allowances for Members of the Assembly would continue to be payable, but would cease immediately, should devolution not be restored by the target date, defined in the legislation. The ability of Assembly Members to change their political designation was restricted.

The Act also decoupled the election of the First and Deputy First Minister, so that the elections are conducted separately and provided for a statutory Ministerial Code, designed to buttress individual ministerial accountability. The Act codified the duties of individual ministers in relation to the North South Ministerial Council and the British Irish Council.

The Assembly met on 24 November 2006 to consider the creation of an Executive, but none was formed. Sinn Fein (SF) held a special executive (Ard Fheis) on 28 January in which the party gave support for the first time to the Police Service of Northern Ireland (PSNI), dependent on the restoration of devolution. The Independent Monitoring Commission published two reports in early 2007 indicating that SF had moved away from criminal activity, and the two Governments held talks designed to ensure the creation of an Executive on 26 March.

On 24 March 2007 the Democratic Unionist Party (DUP) executive agreed a motion which allowed the party to enter into the Executive after a further six weeks, to give Sinn Fein further time to illustrate their support for the police and courts service. The motion was interpreted as an attempt to build support for power sharing within the party. On 26 March 2007 Peter Hain, Secretary of State for Northern Ireland, announced that as long as Ian

Paisley of the DUP and Gerry Adams of SF, held a meeting to agree a date for devolution, he was prepared to introduce emergency legislation to allow the Assembly to continue. This meeting took place on the morning of 26 March, and both parties agreed to enter an Executive on 8 May. That afternoon, the Leader of the House, Jack Straw announced that emergency legislation would be necessary to prevent the immediate dissolution of the Assembly.

A short Bill has been introduced to delay devolution to the new target date of 8 May. It is expected to pass all its parliamentary stages on 27 March 2007.

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I Background

A. Summary of political developments since February 2007

The Northern Ireland Assembly was first elected in July 1998, and devolution to an Assembly and power-sharing executive followed. However, the British Government suspended devolution on 14 October 2002, under the terms of the *Northern Ireland Act 2000*. There followed a series of attempts to ensure the restoration of devolution, including elections to the Assembly in November 2003.

The *Northern Ireland Act 2006* gave the Secretary of State powers to dissolve the Assembly if a First and Deputy First Minister were not elected by 25 November 2006. The Act allowed the Assembly to meet for the purpose of preparing for the restoration of devolution, but gave it no legislative powers. However, in October 2006, the UK and Irish Government negotiated the St. Andrews Agreement, a road map towards the restoration of the power sharing government. The *Northern Ireland (St Andrews Agreement) Act 2006* provided for a new power-sharing executive to be formed on or before 26 March 2007, following elections to the Assembly on 7 March 2007.¹ The Act provided for a new transitional Assembly to be created from 25 November 2006 which would evolve into the real Assembly on the target date of 26 March 2007. If no executive were formed, then the Assembly would be dissolved and salaries and allowances for Assembly Members would cease immediately. Full background is given in Library Research Paper 06/56 *The Northern Ireland (St Andrews Agreement) Bill 2006-7*.

In addition, the *Northern Ireland (St Andrews Agreement) 2006* made a number of amendments to the *Northern Ireland Act 1998* which gave legislative force to the *Belfast Agreement*. It decoupled the election of the First and Deputy First Minister, so that the elections are conducted separately. There is power to review this arrangement after 2011. The largest party within the Assembly has the right to nominate to the post of First Minister, even if that party does not represent the largest designation within the Assembly (expected to be Unionist). The DUP MEP Jim Allister warned that Sinn Fein might be able to take up the First Minister post in future, should the Unionists be represented by a series of parties in the Assembly, all of which were smaller than the main Nationalist party.² Lord Trimble raised this point during the passage of the Bill in the Lords, in relation to Clause 8, which inserts a new 16C into the *Northern Ireland Act 1998*.³

The Act also provided for a statutory Ministerial Code, designed to buttress individual ministerial accountability, and codified the duties of individual ministers in relation to the North South Ministerial Council and the British Irish Council. It restricted Assembly Members' ability to change their political designation. There were new duties for a restored Executive to develop strategies relating to Irish and Ulster Scots language and to poverty and social exclusion, as well as a requirement to report to the Secretary of State a year after restoration towards the devolution of policing and justice. The Order

¹ For background on these developments see House of Commons Library standard note, SN/PC/4245

² "Senior DUP man warns of 'time bomb' in Agreement" 17 November 2006 *Belfast Telegraph*

³ HL Deb 22 November 2006 c388

introducing selective education in secondary schools was amended so that a restored Assembly has powers to overturn its effect, and provisions to reconstitute district policing partnerships were included.

On 24 November Sinn Fein nominated Martin McGuinness as Deputy First Minister and he accepted the nomination. However Ian Paisley was quoted in the Chamber as stating that circumstances had not been reached where there could be a nomination or designation by his party. He stated: "If and when commitments are delivered the DUP will enter Government. At that time it will fall to me to make a judgement consistent with delivery on the ground as a basis for moving forward." ⁴He was interrupted by Robert McCartney (UKUP) and Dermott Nesbit (UUP) who claimed that his words had not been clear enough. Then the Chamber was cleared as part of a security alert.

Ian Paisley issued a statement later that afternoon which indicated that he was prepared to accept nomination. However *BBC News* reported that 12 DUP Assembly Members had issued their own statement indicating that they had played no role in the designation. The statement continued:

Given the total lack of movement on behalf of Sinn Fein on the issue of support for the rule of law, the courts and the Police Service of Northern Ireland, nothing that we have said or done today can be taken by the Government as an indication that they can imply shadow, designate or any other status to anyone in relation to the Office of First and Deputy First Minister.

The statement was signed by four DUP MPs, Nigel Dodds, the Rev William McCrea, Gregory Campbell and David Simpson.⁵

The Sinn Fein Executive agreed on 13 January to hold a special Ard Fheis on 28 January 2007.⁶ There were continuing concerns that the DUP was not prepared to move on the devolution of policing and justice. The report from the Police Ombudsman of Northern Ireland into Special Branch collusion with unionist paramilitaries was published on 22 January 2007.⁷

The Sinn Fein Ard Fheis backed the proposals for policing in Northern Ireland at its special meeting. More than 80% of those who voted backed the party leadership's motion. The implementation of the policing policy would be dependent on the restoration of the power-sharing devolution, according to the party's spokesperson.⁸The *Guardian* reported:

In Belfast, the Sinn Féin president, Gerry Adams, sent a clear message that he would from now on urge victims of crime to report offences to the police. "The communities we represent have a right to a policing service."
Ian Paisley, the leader of the Democratic Unionist party, also gave his most positive, albeit qualified, response to Sinn Féin's decision to turn republican

⁴ "Paisley knocks at the door of power" 24 November 2006 *Belfast Telegraph*

⁵ "Paisley 'will accept nomination'" 24 November 2006 *BBC News*

⁶ "Date for Sinn Fein's key meeting" 13 January 2007 *BBC News*

⁷ NI police colluded with killers" 22 January 2007 *BBC News*

⁸ "Sinn Fein endorses policing" 29 January 2007, *Belfast Telegraph*

history on its head. "If you had told me 20 years ago that they [republicans] would be repudiating the very fundamentals of Sinn Féin/IRA, I would have laughed, but that is what they have done."⁹

The Assembly was dissolved on 30 January 2007, in accordance with the election timetable set out in the *Northern Ireland (St Andrews Agreement) Act 2007*.

On 7 February 2007, the Secretary of State for Northern Ireland, Peter Hain made a statement on developments in the Northern Ireland peace process in response to questions in the House of Commons. He praised decision of the Sinn Fein Ard Fheis to support the policing and court system in Northern Ireland and thanked Sinn Fein leaders for their full cooperation in ensuring that "all obstacles have been removed for devolution on the 26 March"¹⁰. In response to questions regarding the cooperation of other parties, he went on to say:

Provided that, as I expect – and as indeed has already happened – Sinn Fein signs up to support for policing and the rule of law, there is no reason for Unionist in the DUP or any other party not to join it in governing in the future. If that opportunity were missed, it would mean a tremendous price for the hon. Gentleman's party and all the other parties, because dissolution would face Northern Ireland politics with a very bleak future for a very long time.¹¹

In response to a House of Lords question on Northern Ireland devolution on 8 February 2007, the Government was asked to clarify what further issues remained to be settled before the restoration of power to the Northern Ireland Assembly. Lord Rooker, the junior Minister, replied that even though there was still much work to be done in the run up to the 26 March deadline, "there are no issues before us that should prevent the successful restoration of devolved government". In response to question regarding the possibility of cooperation between Sinn Fein and the DUP in the formation of the Executive, he went on to say:

My Lords, an election will take place on 7 March. The legislation has been approved and passed by this Parliament. Only after the election, once the composition of the parties is known, will it be clear which party will have the right to nominate the First Minister and Deputy First Minister. There are more than two parties in Northern Ireland contesting the election. Why should we prejudge it? There are no impediments to devolved government in Northern Ireland. No new hurdles will be put in the way by the Government, and they should not be put in the way by anybody else. The commitments that have been made to policing by Sinn Fein recently have removed the final hurdle – if there was a hurdle – to devolved government and power sharing.¹²

Nominations for the Northern Ireland Assembly elections poll closed on 13 February. More than 250 candidates registered to stand in the assembly elections on 7 March 2007. The poll elected 108 Members of the Legislative Assembly across 18

⁹ "Blair and Ahern meet to weigh up Sinn Fein vote" 30 January 2007 *Guardian*

¹⁰ HC Deb c829, 7 Feb 2007

¹¹ HC Deb c829-831, 7 Feb 2007

¹² HL Deb c786-788, 8 Feb 2007

constituencies.¹³ The *Belfast Telegraph* reported that the total figure included 46 DUP candidates, 38 Ulster Unionist, 37 for Sinn Fein 35 standing for the SDLP and 18 candidates for the Alliance party.¹⁴ There were also 13 UKUP candidates, 13 Green Party, nine Conservative and six Workers Party candidates. The full list of candidates is available from the following link www.eoni.org.uk.

The Electoral Office for Northern Ireland announced that as a result of rolling registration, more than 40,489 voters would be added to the electoral register in order for them to be allowed to vote in the March elections. The revised register would contain 1,115,965 voters who had completed registration forms by the closing date of 11 January 2007. This register represented a reduction of 3.6 per cent (41,807) from that published on 1 December 2005, which contained the names of 95,000 individuals which had been 'carried forward' under earlier legislation no longer in force.¹⁵ The Electoral Commission also encouraged voters to participate in the assembly elections by postal or proxy vote.¹⁶

The SDLP registered the highest number of women candidates – 40% of their candidates – out of all the parties in the Northern Ireland Assembly elections. SDLP leader, Mark Durkan spoke of the real progress made “in sorting out gender and generation” within the party.¹⁷

In a speech at the launch of the Ulster Unionist manifesto, entitled *A Northern Ireland for All of Us*¹⁸, the leader of the Ulster Unionist Party, Sir Reg Empey said:

Northern Ireland faces many challenges – building the competitiveness of our economy; investing in a health service free for all and education that offers opportunity to all; protecting our environment; securing fair and just society. With these challenges, however, comes opportunity – above all, the opportunity of moving Northern Ireland forward. For this to happen we need devolved government – government accountable to the people of Northern Ireland. We deserve better than unaccountable Direct Rule government – through part-time Ministers not elected by the people of Northern Ireland.

The Ulster Unionist Party is prepared for the challenges and ready to make the most of the opportunity for everyone in Northern Ireland. We are the only Party prepared to pledge to you, the voters, that we will take our seats in government and govern for the good of Northern Ireland within the United Kingdom.

On 7th of March we all have an opportunity of moving beyond the stale, failed politics of the past – and forming a devolved government that will put Northern Ireland first.¹⁹

¹³ Poll candidate line up revealed, BBC News Online, 14 Feb 2007

¹⁴ 'Fight for Assembly's 108 seats begins', 14 February 2007, *Belfast Telegraph*

¹⁵ "Over 40,000 new voters on latest electoral register" February 2007 *Electoral Office for Northern Ireland*

¹⁶ 'Date passed for postal vote forms', 16 February 2007, *BBC News Online*

¹⁷ 'SDLP launches highest number of women candidates of any party', 13 February 2007, http://www.sdlp.ie/news_latest_01.html

¹⁸ http://www.uupforallofus.org/uup_manifesto2007.pdf

¹⁹ 'UUP will take its seats in government and move beyond the failed politics of the past – Sir Reg Empey, 16 February 2007, <http://www.uuptoday.org/newsroom>

He outlined his party's commitment to "everyday issues" such as the health service, schools, jobs and investments, rates and water charges and the environment.²⁰

On 22 February the DUP leader Ian Paisley launched his party's manifesto entitled, *Getting it Right*²¹, which reiterated the party's insistence on delivery by republican representatives before the DUP would enter a power-sharing executive. It also emphasised the necessity for a satisfactory financial package as a precondition for establishing devolution.²² In a speech he said:

We have proved those who said the Belfast Agreement could not be renegotiated wrong and have delivered fundamental changes to the way in which devolution operates.

- In a new administration DUP Ministers would have a veto on all major decisions and total control of north south relations. We have forced republicans to jump first and deliver before unionists are expected to move.

- Taking a pledge of office to support the police is a precondition to holding office and all IRA criminal and paramilitary activity must end before Sinn Fein can be in an Executive.

We have set the political agenda and ensured that there can be no devolution of policing and justice without our support and no Sinn Fein Minister even once there is devolution

For us it is about delivery and not deadlines. This strategy has already delivered results and will do so again. The restoration of devolution will not be delayed because of the DUP. It will only be delayed if republicans or the government do not deliver on their commitments and obligations.

It comes as no surprise that the Ulster Unionist Party has already signed up to the 26th March and lost any negotiating leverage that it may have had. We will not be so foolish. On policing Sinn Fein still have some distance to travel. There can be no distinction between civic and political policing; there can be no place for elected representatives to say they would not report paramilitary activity by dissident republicans, there can be no acceptance of people in Government who would not report the discovery of guns.

It is clear that the Ulster Unionist Party will accept all this but we will not. But the real contest at this election is not with the Ulster Unionist Party but with Sinn Fein. Even the UUP does not pretend that it can emerge from this election as the largest party in Northern Ireland. This is a vital election for unionists to turn out and vote. Unionism needs the strongest possible mandate to keep the pressure on republicans. We need the strongest possible mandate to ensure any executive has a unionist majority and we need the strongest possible mandate to ensure that there will be a unionist and not a Sinn Fein First Minister when devolution returns.²³

²⁰ 'UUP wants to make Stormont work', 16 February 2007, *BBC News Online*

²¹ <http://www.dup.org.uk/Manifesto2.asp>

²² 'Republicans must deliver says DUP', 21 February 2007, *BBC News Online*

²³ '2007 DUP Manifesto Launch – Dr Ian Paisley MP', 22 March 2007
http://www.dup.org.uk/articles.asp?Article_ID=2589

Sinn Fein President, Gerry Adams launched the party's election manifesto on 28 February 2007. When asked whether an executive dominated by the DUP and Sinn Fein could work, he said that the "DUP demanded the assembly election and must accept the outcome".²⁴ Speaking at the launch of the manifesto, *Delivering for Ireland's Future*²⁵, he outlined the party's 10 commitments to the voters and said:

As an all-Ireland party, Sinn Féin is fighting two elections at this time, the undeclared one in the south where this party is an increasingly viable option for voters looking for positive change and this one in the north.

People of all political persuasions want to see the British Direct Rule Ministers sent home. There is no reason why this should not happen by March 26th.

Politics has to be about empowering people. It is about making a positive difference to people's lives. We take a strategic view about how to accomplish this. For example, at our Ard Fheis last year I set out the objectives for our negotiations. These were:

- To end the suspension of the political institutions
- To ensure there would be no dilution of the Good Friday Agreement
- Full implementation of the outstanding aspects of the Agreement
- A conclusion to the debate on policing

The recent Sinn Féin Ard Fheis on Policing is proof once again of how Sinn Fein delivers, openly, democratically, in the national interest and in a way that opens up the possibility for more progress.²⁶

The SDLP leader, Mark Durkan labelled Sinn Fein and the DUP as "suspension parties" and said that there could be no more "stalling, stunts or stand-offs"²⁷. He spoke at the launch of his party's manifesto titled, *Lets Deliver Real Progress*.²⁸

The Alliance Party proposed cutting the number of Stormont Assembly members from 108 to 80. Launching its manifesto *The Alternative: the Agenda for a United Community*²⁹, Party leader, David Ford, said he hoped the plans would be implemented by the next Stormont election.³⁰

In the run up to the elections a senior Ulster Unionist Party member warned of the dangers of a devolved assembly at Stormont to the Union. South Antrim UUP Assembly candidate, David Burnside said that English MPs could weaken in their support for

²⁴ 'DUP must accept result: Sinn Fein', 28 February 2007, *BBC News Online*

²⁵ <http://www.sinnfeinassembly.com/en/campaign-literature/entry/167>

²⁶ 'Sinn Fein Manifesto Launch – Delivery for Ireland's Future', 28 February 2007

<http://www.sinnfeinassembly.com/en/press-centre/entry/168>

²⁷ 'Launch of SDLP election manifesto', 26 February 2007, http://www.sdlp.ie/news_26022007_52.html

²⁸ http://www.sdlp.ie/policy_manifesto.html

²⁹ <http://www.allianceworks.org/index.asp>

³⁰ 'Alliance wants to cut MLA numbers', 27 February 2007, *BBC News Online*

Ulster's membership of the Union if an SNP victory in Scotland prompted a referendum on the end of the union and added:³¹

A legislative Stormont which is inherently unstable and undemocratic, however, might be used by English MPs as an excuse to weaken the union and could be a dangerous Trojan horse for unionism.

B. The elections

The elections to the Northern Ireland Assembly took place on 7 March 2007. Turnout at the election was 63% with Mid Ulster seeing the highest percentage turnout at 73% and East Antrim recording the lowest percentage poll at 53%.³² Part III of this Paper sets out the results in detail.

The DUP won 36 seats, Sinn Fein 28 seats, UUP 18 seats, SDLP 16 seats, Alliance Party 7 seats and one seat each was taken by the PUP, Green Party and an independent candidate. All four leaders of the main parties were also returned to the Assembly.³³

In a joint statement following the election results, the Prime Minister, Tony Blair, and the Taoiseach leader, Bertie Ahern said:

The people have spoken and we can move to the next step outlined at St Andrews – the restoration of the Assembly and Executive.

The message of the electorate is clear. After so many years of frustration and disappointment, they want Northern Ireland to move on to build a better future together through the restored institutions. Many of the practical issues which have been raised in this election campaign can and should be resolved locally. Elected representatives now have to take the chance to do so.

Restoration of the devolved institutions represents an opportunity of historic proportions. It must not be missed. We urge the parties to take on this challenge and to set Northern Ireland on a steady course for the future.

We will closely work with the parties in the coming period as the final steps are taken for restoration on 26 March. Much good work has already been done in preparation for restored government. We look forward to this work continuing.³⁴

Following the election, the Secretary of State for Northern Ireland, Peter Hain, said that there were no plans to postpone the 26 March deadline for devolution. He also warned that there would be no "shadow assembly" if the devolution deadline is not met. This was in response to reports that the DUP was holding back on forming a power-sharing

³¹ 'UUP fears over future for UK', 19 February 2007, *epolitix.com*

³² <http://www.electoralcommission.gov.uk/elections/northernireland2007.cfm>

³³ 'DUP top in NI assembly election', 12 March 2007, *BBC News Online*

³⁴ Joint statement by the Prime Minister and Taoiseach in response to the Northern Ireland election results <http://www.nio.gov.uk/media-detail.htm?newsID=14182>

executive with Sinn Fein, on the basis that SF had to provide more evidence of their commitment to the Northern Ireland Police Service.³⁵

On 12 March 2007, the Independent Monitoring Commission published its fourteenth report on security normalisation.³⁶ Peter Hain welcomed the reports findings that the IRA were committed to the political path and did not pose a security threat. In a statement following the publication of the report, he said:

This is the eighth IMC report since the IRA announced that its armed campaign had ended in July 2005, each one progressively confirming delivery of the commitments promised by them, including driving criminality out of the organisation.

This report details what the people of Northern Ireland are already experiencing – that they are living in an increasingly normalised society.

It is now up to the politicians to normalise politics in Northern Ireland and restore devolved government and power sharing Executive on 26 March. There can be no excuse for not doing the deal.

This report shows that the watchtowers have been dismantled; troop levels are at an all time low, fortifications are coming down at police stations and officers are patrolling on foot where previously they were in armoured vehicles.

Northern Ireland has been transformed and this report underlines the extent of that transformation. Two years ago, who would have predicted that an IMC report would state that the IRA has abandoned terrorism and violence, disbanded its operational structures, is firmly committed to the political path and has abandoned criminality.

That's what today's report is saying and the Government will continue to follow through on the commitments that it gave to normalise society in an enabling environment so that the safety of the people of Northern Ireland is not put at risk.³⁷

The Government introduced the *Northern Ireland Act 2000 (Modification) Order 2007* into Parliament, which will extend direct rule for a further six months. During its debate in the Lords Grand Committee on 20 March 2007, Lord Rooker explained that the main purpose of the Order was to extend the power to legislate for Northern Ireland matters from 15 April to 14 October 2007:

This modification order would provide for a further extension of six months from 15 April this year to 14 October—in other words, the current arrangements expire during Parliament's Easter Recess. The order is being brought forward purely on a contingency basis. We fully expect that devolution will be restored next

³⁵ 'No shadow assembly warns Hain', 12 March 2007, *BBC News Online*

³⁶ Fourteenth Report of the Independent Monitoring Commission at

http://www.independentmonitoringcommission.org/documents/uploads/14th_IMC_Report.pdf

³⁷ 'Society has been transformed – Hain', 12 March 2007, <http://www.nio.gov.uk/media-detail.htm?newsID=14185>

Monday, 26 March, which would cause the power to legislate by order to fall away anyway. Devolution of powers will take place once the process has been undertaken at Stormont. If failure occurs, however, the Government will be left with no alternative but to proceed to direct rule, and the Secretary of State has made it clear that that would be for years rather than months.

Noble Lords previously raised concerns, and I want to put this on the record as well, that legislating in such a manner is democratically deficient. It is. We accept that, and we have done so for some time. We recognise those concerns, and we have made the commitment, which I am happy to repeat, that if for some reason devolution does not occur, we will move to introduce measures designed to increase accountability in this Parliament under direct rule. The measures would be discussed through the usual channels, and would constitute a distant, remote second best to Northern Ireland politicians doing what they have been elected and paid to do—that is, taking responsibility in Northern Ireland.

As I said, the tightness of the parliamentary calendar dictates that there would be insufficient time to lay and pass an order before the Easter Recess. We cannot take a risk on leaving that until after next Monday. Believe you me, the best brains in the Government—which do not include me—and the Northern Ireland Office have thought long and hard about this. It looks like a plan B, but it is not. There is no plan B. We expect devolution to be back next Monday. However, we have to prepare a contingency. We could not automatically assume that in the few days at the end of next week, with the Budget debate and everything else, we could get both Houses of Parliament to pass what would look like unthought-out emergency legislation. That is not what this is; we have thought about it. Purely as a contingency, we are bringing forward this order. We hope and trust, of course, that it will never be operated and that the devolved powers will return to Stormont and a devolved Assembly some time during the hours of 26 March. I beg to move.³⁸

The passage of the Order received support from the other Opposition parties. On the same day the Lords debated and passed the draft *Police (Northern Ireland) Act 2000 (Renewal of Temporary Provisions) Order 2007*, which continues the temporary provisions for the appointment of police officers and staff for a further three years, with the aim of increasing Catholic composition in the Police Service of Northern Ireland to a level considered representative of that community.³⁹

Alliance Party leader, David Ford announced that his seven Assembly members had joined forces with the Independent, Dr Kieran Deeny and the Green Party Assembly member, Brian Wilson to form a “united community group”. He said:

This cooperation agreement between those of us who are the progressive future signals our intent to take on the tribal parties and deliver a new brand of politics which works for everyone.

We have no doubt that those who gave us our increased mandate would see this as the right thing to do. It is now up to the parties who have said that they will take seats in the Executive to do the same.⁴⁰

³⁸ HL Deb 20 March 2007 c182GC

³⁹ HL Deb 20 March 2007 c163-181GC

⁴⁰ ‘Paisley gives strong hint of deal with SF’, 14 March 2007, *Irish Independent*

The Secretary State for Northern Ireland, Peter Hain initiated a two day series of talks with the main political parties in the run up to restoring a power-sharing Executive on the 26 March. Following the meeting, the DUP leader, Ian Paisley said that progress towards devolution was being made but continued to insist that setting up a power-sharing Executive was still conditional on the IRA delivering. He also expressed concern regarding the the issue of water charges in Northern Ireland, which has become an important concern for all parties and said that this would be a priority.⁴¹

The Chancellor, Gordon Brown, met Ian Paisley and Gerry Adams on 22 March, with the other Northern Ireland party leaders, to discuss the possibility of extra funding for Northern Ireland, should devolution be restored. The extra funding was originally announced in November 2006.⁴² There was some press comment to the effect that the size of the financial package provided by the Chancellor could be pivotal in negotiations towards a power-sharing executive on March 26. Following a meeting with the Irish Foreign Affairs minister, Dermot Ahern, Peter Hain said that the “the Chancellor would be prepared to provide extra assistance if that is what is needed to get the parties across the line”.⁴³ The Irish Government has also said that it is prepared to make funds available for the development of social infrastructure projects in Northern Ireland.⁴⁴

Following the meetings of the DUP and Sinn Fein leaders with the Prime Ministers the Taoiseach, Bertie Ahern expressed confidence that they were now in the final stages of the peace process and said “we are at the final stage after 10 years of this and are within 10 days of an agreement.”⁴⁵

Gerry Adams also was optimistic that a political deal to restore devolution was close following his meeting with the Prime Minister and Gordon Brown and said:

A British government will always be reluctant to give as much as it should. But at the same time I do think that this British government, they know – they can smell it – that this could be the real breakthrough after all the conflict, after all the false dawns.

Whatever about the fiscal amounts involved, there certainly is a realisation there that this could be it.⁴⁶

A survey of the DUP Assembly Members carried out by the *Belfast Telegraph*, indicated that while they were in favour of sharing power, most believed the March 26 deadline to be unrealistic.⁴⁷ DUP MP Nigel Dodds rejected Peter Hain’s claims that devolution or dissolution were the only two options. As quoted in the *Irish Times*, he said that “a new Act of Parliament could simply re-instate the Northern Ireland Assembly on the basis of last week’s election – even if it was dissolved following a failure to appoint an Executive

⁴¹ ‘Paisley gives strong hint of deal with SF’, 14 March 2007, *Irish Independent*

⁴² “Peace dividend deal ‘not done yet’” 22 March 2007 *Belfast Telegraph*

⁴³ ‘Hain Seeks to Persuade Paisley’, 13 March 2007, *The Guardian*

⁴⁴ ‘Republic Unveils Cash Plan for NI’, 23 January 2007, *BBC News Online*

⁴⁵ ‘We are just days away from a deal, insists Ahern’, 15 March 2007, *Irish Independent*

⁴⁶ ‘Adams: deal could be close’, 15 March 2007, *The Irish News*

⁴⁷ ‘DUP edge closer to deal’, 15 March 2007, *Belfast Telegraph*

on Monday week.⁴⁸ Responding to Mr Hain's comments that there can be no backsliding on the 26 March deadline he added:

The DUP is in no way fazed or intimidated by the NIO line and this talk of a new election. We know it's nonsense, they [the British Government] know it's nonsense, and they should just get on with delivery.⁴⁹

Speaking on BBC Northern Ireland, Peter Hain warned that restoration of devolution to Northern Ireland "is not a done deal" and that there are "final negotiations to be had. He added that "I want all politicians to be absolutely crystal-clear that March 26 is the date set by Parliament and endorsed by the people. There is no getting past it, there is no trying to duck it or dodge it."⁵⁰ The Secretary of State made an order under section 2(2) of the *Northern Ireland (St Andrews Agreement) Act 2006* restoring devolution from midnight on 26 March 2007. This order is due to be rescinded by the current Bill.

C. Developments on 26 March 2007

As the deadline of 26 March approached, negotiations between the Prime Minister and the DUP were reported on 23 March 2007, indicating that the DUP might be prepared to participate in a new Executive, as long as there was a delay of 6 weeks.⁵¹ The DUP executive met on 24 March and agreed a motion to participate in a power sharing Executive after a further 6 weeks. The motion was supported by all the DUP MPs. There was media speculation that Dr Paisley was concerned to avoid a split in the DUP, should the deadline of 26 March be met. The 6 week period was seen as necessary to ensure that the SF commitment to supporting the PSNI was tested in practice.

On 26 March Peter Hain stated on the BBC Today programme that the Government would be prepared to consider emergency legislation, if the DUP and SF party leaders met that day to consider the way forward:

Mr Hain told the BBC on Monday: "I've just had news overnight that Ian Paisley and Gerry Adams are meeting for the very first time in their lives - the DUP, the Democratic Unionist Party, and Sinn Fein.

"This is something that defies the word breakthrough, it's never happened before.

"And if they do proceed, and if they have agreed or find a way of agreeing, then they will be able to lock in their own form of power-sharing government rather than me, as past governments have done, imposing something".

He added: "I am not worried about a deadline going over a few weeks, if we have something that has never happened before."⁵²

The *Guardian* reported that there appeared to be differences between Downing Street and the Northern Ireland Office in their approach to the negotiations, and that the former Northern Ireland Secretary, John Reid had participated in the negotiations over the past week. SF sources did not appear to favour a further delay. Gerry Adams was quoted as

⁴⁸ 'Hain's deadline threat nonsense, says Dodd', 16 March 2007, *The Irish Times*

⁴⁹ Hain's deadline threat nonsense, says Dodd', 16 March 2007, *The Irish Times*

⁵⁰ 'Restored executive not done deal yet', 17 March 2007, *Belfast Telegraph*

⁵¹ DUP may have plan to break Monday deadlock" 24 March 2007 *Irish Times*

⁵² "Stormont deadline 'may now slip" 26 March 2007 *BBC News*

saying that it as vital that devolved government was restored, otherwise “additional water charges and other punitive and unfair measures will be introduced by unaccountable British Direct Rule ministers” .⁵³

During the course of 26 March, Gerry Adams and Ian Paisley held a meeting. *BBC News* reported as follows:

Ian Paisley and Gerry Adams, sitting side by side for their first news conference in Stormont, confirmed that power-sharing would begin on 8 May.

The DUP leader had dropped his long standing ban on talking to Sinn Fein.

The British and Irish governments had said they would shut the assembly if an executive was not agreed on Monday.

The Stormont Assembly was due to meet at noon to appoint ministers to a devolved government.

Instead, the two party delegations met at Parliament Buildings, Stormont.

Mr Hain said: "When you have got both major parties saying we will deliver... that gives me confidence that this process is finally achieved."

He said people now wanted their politicians to concentrate on "bread and butter issues".

Mr Hain said a one-clause emergency bill should go through Parliament on Tuesday before midnight, which would enable the process to go forward smoothly.

After 8 May, he said there would still be a need for a Secretary of State, as well as ministers, until there was devolution in justice and policing.⁵⁴

BBC News went on to report:

Both Sinn Fein and the DUP have asked the British government not to issue water bills due to be sent out this week for the first time.

Until now, people in Northern Ireland have not had to pay separate charges for their water supply. But the government has moved to change this, in line with the rest of the United Kingdom.

Speaking after Mr Paisley and Mr Adams' historic news conference, SDLP leader Mark Durkan while welcoming the development, said he could not understand why devolution could not happen on Monday.

The Ulster Unionist leader Sir Reg Empey said the DUP could have got the same deal much earlier.

An order signed by the NI secretary restarted devolution at midnight. .⁵⁵

Ian Paisley was quoted as saying:

In the past, the Government has set arbitrary deadlines but now, we as a party have agreed the timing, setting up and working of the institutions. We have agreed with Sinn Fein that this date will be Tuesday May 8.⁵⁶

Gerry Adams said:

⁵³ "Paisley-Adams meeting breaks the last taboo" 26 March *Guardian*

⁵⁴ "Historic NI power-sharing deal" 26 March 2007 *BBC News*

⁵⁵ "Historic NI power-sharing deal" 26 March 2007 *BBC News*

⁵⁶ "Northern Ireland's arch-enemies declare peace" 27 March 2007 *Guardian*

While it is disappointing that the institutions of the Good Friday Agreement have not been restored today, I believe the agreement reached between Sinn Fein and the DUP...marks the beginning of a new era of politics on this island.⁵⁷

There was considerable comment as to the significance of the meeting, since it was the first time that Ian Paisley and Gerry Adams had held an official meeting together. There were also press reports that the new arrangements for the payment of water rates would be postponed until the new devolved administration was formed.⁵⁸

Mr Paisley said that both parties would engage in preparatory work before 8 May, when the Assembly would meet to elect the First and Deputy First Minister. Sinn Fein is expected to nominate Martin McGuinness for the Deputy First Minister post. The DUP are expected to nominate Ian Paisley. Under the terms of the d'Hondt procedure for allocating ministries, set out in the *Northern Ireland Act 1998*, the DUP is expected to be allocated four ministries, Sinn Fein three, the Ulster Unionist Party three and the Social Democratic and Labour Party one.⁵⁹

Elections are due shortly in the Republic of Ireland, where Sinn Fein also organises, and the party hopes to make some significant gains. There has been speculation that the choice of 8 May may assist the party in its electoral strategy in the Republic.⁶⁰

Jack Straw, the Leader of the House, made a business statement on 26 March, announcing that an emergency bill would be taken through both Houses on 27 March to achieve royal assent before midnight on 27 March. He said:

This morning, following their meeting, the leaders of the DUP and Sinn Fein together asked Her Majesty's Government to introduce emergency legislation immediately to give effect to their agreement. To achieve that within the framework put in place last November by Parliament in the Northern Ireland (St. Andrews Agreement) Act 2006, it is essential that the necessary changes to that Act are made by midnight tomorrow. I am therefore proposing to the House a change to the Order Paper tomorrow to allow a very short technical Bill to be considered to put the necessary changes in place. My noble Friend the Chief Whip in the Lords will make a similar request in the other place.⁶¹

Theresa May, the Shadow Leader of the House, expressed support for the legislation, but expressed concern that the debate on the Budget would be shortened as a result. Mr Straw promised to consider an extension of the day's sitting on 27 March. David Heath, for the Liberal Democrats, also expressed concern that the Budget business would be affected, while welcoming the Bill.⁶²

⁵⁷ "Northern Ireland's arch-enemies declare peace" 27 March 2007 *Guardian*

⁵⁸ *ibid*

⁵⁹ "DUP gets first choice in Cabinet ministries" 27 March 2007 *Times*

⁶⁰ See the blog Slogger O'Toole at <http://www.sluggerotoole.com/index.php>

⁶¹ HC Deb 26 March 2007 c1158

⁶² HC Deb 26 March 2007 c1159-60

II The Bill

The Bill has two clauses. **Clause one** substitutes new target dates of 7-10 May 2007 for each reference to the period 25-28 March 2007 in the *Northern Ireland (St Andrews Agreement) Act 2006*. Different dates operate because of the technically complex way in which the *Northern Ireland (St Andrews Agreement) Act 2006* provided either for the restoration of devolution or the immediate suspension of the Assembly.

In particular, the Bill ensures that the order made by the Secretary of State on 25 March 2007 under the *Northern Ireland (St Andrews Agreement) Act 2006* to restore devolution is treated as though it was not made. Part Two and Schedule 2 to the Act, which provide for the restoration of devolution on 26 March are deemed not to have taken effect, and Schedule 3, which provided for the Secretary of State to dissolve the Assembly if no devolution took place, is also deemed not to come into force. Schedule 3 would otherwise have come into force on 28 March 2007. **Clause two** gives the title of the Act.

III The Northern Ireland Assembly elections 7 March 2007⁶³

A. The Electoral System

As part of the Belfast Agreement concluded on 10 April 1998,⁶⁴ the Single Transferable Vote (STV) system was adopted for the Northern Ireland Assembly. STV was already in use for local and European Parliament elections in Northern Ireland.

The STV system requires electors to vote for at least one candidate and then express preference for as many others as they wish. A candidate is elected as soon as he/she reaches the electoral quotient computed according to a particular quotient, known as the Droop Quota:

$$\text{Droop quota} = \frac{\text{Votes}}{\text{Seats} + 1} + 1$$

The additional votes obtained by the elected candidates are then redistributed to the other candidates on the basis of the second choices expressed by electors. The same operation is carried out in the case of candidates placed last, who are eliminated. If there are still seats to be filled after the second count, the process continues.

There are 108 seats in the Assembly, with six seats allocated to each of the 18 Westminster constituencies in Northern Ireland.

⁶³ This Part is based on Library Standard Note 4292 *Northern Ireland Assembly Elections 2007* by Richard Cracknell

⁶⁴ Cm 3883 1998 Otherwise known as the *Good Friday Agreement*

B. The results

The table below summarises the results of the elections:

Table 1: Northern Ireland Assembly election results: 7 March 2007

	Seats won	change from 2003	1st pref votes		change from 2003 % pt
			No.	%	
Democratic Unionist Party	36	+6	207,721	30.1%	+4.4
Sinn Fein	28	+4	180,573	26.2%	+2.6
Social Democratic and Labour Party	16	-2	105,164	15.2%	-1.7
Ulster Unionist Party	18	-9	103,145	14.9%	-7.7
Alliance Party of Northern Ireland	7	+1	36,139	5.2%	+1.6
Independent	1	-	16,249	2.4%	-0.4
Green Party	1	+1	11,985	1.7%	+1.3
United Kingdom Unionist Party	0	-1	10,452	1.5%	+0.7
No party description	0	-	5,744	0.8%	+0.8
Progressive Unionist Party	1	-	3,822	0.6%	-0.6
Conservative Party	0	-	3,457	0.5%	+0.3
Socialist Environmental Alliance	0	-	2,045	0.3%	-0.0
UK Independence Party	0	-	1,229	0.2%	+0.2
Workers Party	0	-	975	0.1%	-0.1
People Before Profit Alliance	0	-	774	0.1%	+0.1
Socialist Party	0	-	473	0.1%	+0.0
Make Politicians History	0	-	221	0.0%	+0.0
Labour Party	0	-	123	0.0%	+0.0
Procapitalism	0	-	22	0.0%	+0.0
Total	108		690,313	100.0%	

Source: The Electoral Office for Northern Ireland

<http://www.eoni.org.uk/index/elections/assembly-election-2007/ni-assembly-election-2007-results.htm> (26 March 2007)

- The Democratic Unionist Party won 36 (33%) of the 108 seats, 6 more than in 2003. The DUP won the highest share (30%) of the first preference votes.
- Sinn Fein, gained 4 more seats than in 2003 and secured the second highest share of first preference votes, 26%.
- The UUP lost ground in 2007. In 2003 the UUP had received 23% of first preferences, but this fell to just under 15% in 2007. Their total of 18 seats won was down 9 on 2003.
- The SDLP also had around 15% of first preference votes; which was slightly down on its 17% in 2003. It has two fewer seats in 2007 than in 2003; and two fewer seats than the UUP, in spite of receiving a slightly larger proportion of first preference votes.
- The number of valid votes was 690,313 which is 62.3% of the electorate. Invalid votes numbered 6,225. The total votes cast (valid and invalid) is equivalent to 62.9% of the electorate. Turnout in 2007 was slightly lower than in the 2005 General Election (62.9%) and the 2003 Assembly election (63.1%)⁶⁵.

The distribution of the six seats in each constituency by party is set out in Table 2.

⁶⁵ both figures based on valid votes only.

Table 2 Assembly seats by party by constituency

Constituency	Assembly Members by party								All
	DUP	Sinn Fein	SDLP	Ulster Unionist	Alliance	Ind.	Green	Prog. Unionist	
Belfast East	3			1	1			1	6
Belfast North	2	2	1	1					6
Belfast South	1	1	2	1	1				6
Belfast West		5	1						6
East Antrim	3			2	1				6
East Londonderry	3	1	1	1					6
Fermanagh and South Tyrone	2	2	1	1					6
Foyle	1	2	3						6
Lagan Valley	3	1		1	1				6
Mid Ulster	1	3	1	1					6
Newry and Armagh	1	3	1	1					6
North Antrim	3	1	1	1					6
North Down	2			2	1		1		6
South Antrim	2	1	1	1	1				6
South Down	1	2	2	1					6
Strangford	4			1	1				6
Upper Bann	2	1	1	2					6
West Tyrone	2	3					1		6
<i>Northern Ireland Assembly</i>	36	28	16	18	7	1	1	1	

Source: The Electoral Office for Northern Ireland

Further details are available from the Electoral Office for Northern Ireland.⁶⁶

⁶⁶ <http://www.eoni.org.uk/index/elections/assembly-election-2007/ni-assembly-election-2007-results.htm>