



Political Developments in Northern Ireland since February 2006

Standard Note: SN/PC/4067
Last updated: 12 June 2006
Author: Oonagh Gay
Parliament and Constitution Centre

This Note offers a summary of developments in the political process in Northern Ireland since February 2006. For an earlier chronology of events, please see Standard Note no 3757.

Contents

A.	A summary of political developments since 1998	2
B.	Elections in November 2003	2
C.	The Comprehensive Agreement proposals of December 2004	3
D.	IRA announcement July 2005	4
E.	The <i>Northern Ireland (Miscellaneous Provisions) Bill 2005-6</i>	6
F.	Joint statement on 6 April 2006	7
G.	The <i>Northern Ireland Bill 2005-6</i>	10
H.	Recall of the Northern Ireland Assembly	13
I.	Review of Public Administration	14

A. A summary of political developments since 1998

On 10 April 1998, the *Belfast Agreement* was finalised. It was endorsed through a referendum held on 22 May 1998 and subsequently given legal force through the *Northern Ireland Act 1998*. The Northern Ireland Assembly was elected on 25 June 1998 under the terms of the *Northern Ireland (Elections) Act 1998*.

The Assembly met for the first time on 1 July 1998 and David Trimble (Ulster Unionist Party) was elected as First Minister with Seamus Mallon (Social Democratic and Labour Party) as the Deputy First Minister. Difficulties in securing agreement on decommissioning delayed devolution. The Assembly met on 29 November 1999 when 10 Ministers were nominated, according to the d'Hondt formula set out in the *Northern Ireland Act 1998*. On 30 November 1999 the Secretary of State made the *Northern Ireland Act 1998 (Commencement Order No 5)* resulting in the devolution of powers to the Northern Ireland Assembly from 2 December 1999.

Continued problems regarding decommissioning led to the re-introduction of direct rule through primary legislation in the form of the *Northern Ireland Act 2000* which allowed for the suspension of the operation of the Assembly and Executive, restoration of devolution by order and for Northern Ireland legislation to be undertaken at Westminster by Orders in Council. Devolution was suspended from 11 February 2000 to 30 May 2000.

Throughout 2002, sectarian violence and allegations that the IRA had broken their ceasefire caused further problems. On 14 October 2002 the then Secretary of State for Northern Ireland, John Reid, announced the return of direct rule, using powers in the *Northern Ireland Act 2000*, following a police raid on Sinn Fein offices at Stormont and the resignation of two Democratic Unionist Party ministers from the executive. The Northern Ireland Office took on the work of the Executive and Assembly Bills were introduced into Parliament as Orders in Council.

B. Elections in November 2003

Elections to the Assembly originally due on 1 May 2003 were postponed twice, first to 29 May 2003 and then until the autumn on the grounds that outstanding issues about the position of the IRA could not be resolved during an election campaign. A *Joint Declaration* was published on 1 May 2003 which stressed the necessity in this context of 'acts of completion' in the full implementation of the *Belfast Agreement*. As part of the package of proposals surrounding the Joint Declaration by the British and Irish Governments, a draft Agreement on Monitoring and Compliance between the British and Irish Governments was published on 1 May 2003. This envisaged the establishment of an Independent Monitoring Commission (IMC) to monitor the activities of paramilitaries. The *Northern Ireland (Monitoring Commission etc) Act 2003* was passed to implement this proposal, which also contained extra provisions to be used to exclude ministers and parties from the Executive, and for the Secretary of State to vary provisions on pay and allowances for Assembly Members.¹

¹ See Research Paper 03/69 *The Northern Ireland (Monitoring Commission etc) Bill*.

The Assembly elections took place on 26 November 2003. Results of the elections are given in Library Standard Note no 3801 *Northern Ireland Assembly Elections 2003*. The main results were as follows:

- The Democratic Unionist Party won 30 of the 108 seats, 10 more than in 1998. The DUP won the highest share of the first preference votes.
- The Ulster Unionist Party won 27 seats, one fewer than in 1998 despite a higher share of the first preference votes.
- Sinn Fein, who secured more first preference votes than the UUP, won 24 seats.
- The Social Democratic and Labour Party won the fewest seats, and the lowest share of the vote, of the major parties.
- Turnout was 63.1 percent of the electorate, compared to 68.8 percent at the 1998 Assembly elections and 68.0 percent in Northern Ireland at the 2001 General Election.

Due to the continued suspension of devolution this Assembly has not formally sat, although its Members carry out constituency work.

C. The Comprehensive Agreement proposals of December 2004

A review of the Belfast Agreement with all the political parties began in early 2004. However efforts were halted after the Popular Unionist Party (PUP) leader disengaged from the review in March. Short Money type allowances were removed from PUP and Sinn Fein Assembly Members following a report from the IMC's first report in April 2004. After the European elections in June, review talks resumed in Stormont and then at Leeds Castle where a British/Irish communiqué was issued.² On 8 December 2004 the DUP leader Ian Paisley confirmed that the negotiations to restore devolution had broken down. There were recriminations between the DUP and Sinn Fein as to the responsibility for the breakdown. That day, Tony Blair and Bertie Ahern held a news conference where the proposals for the agreement were published and made available for public scrutiny.³ These were entitled the *Proposals by the British and Irish Government for a Comprehensive Agreement*.

These *Proposals* planned for:

1. legislation to introduce a shadow Assembly to allow time for parties to prepare adequately for the re-establishment of political institutions
2. legislation enabling the devolution of policing and justice functions

The *Proposals* set out a timetable for an IRA statement on decommissioning, on creating a shadow assembly, and the nomination of the First and Deputy First Ministers, among other measures. In Annex B there were also proposals by the British Government for changes in the Strand One institutions (the Assembly), such as 'enhancing collectivity and accountability' and providing for a statutory Ministerial Code, amendments to the Pledge of Office and amendments to the Assembly procedures for nominating Ministers Annex C

² <http://www.nio.gov.uk/index/media-centre/media-detail.htm?newsID=10254>

³ *Progress but no deal says Blair, BBC News*, 8 December 2004 The *Proposals by the British and Irish Government for a Comprehensive Agreement* December 2004 are available at http://news.bbc.co.uk/nol/shared/bsp/hi/pdfs/08_12_04_british_irish_proposals.pdf

contained proposals from the British and Irish Governments for changes in Strands Two and Three institutions such as the North-South Ministerial Council and the British Irish Council.

There was considerable speculation about the involvement of the IRA in the Northern Bank robbery on 20 December 2004, where £26m was stolen and the International Monitoring Commission (IMC) report of 10 February 2005 concluded that the IRA had been responsible. There was further pressure on Sinn Fein following the murder of Robert McCartney in January 2005. On 10 March 2005 a motion was passed in the name of the Leader of the House, Peter Hain and the Secretary of State for Northern Ireland, to suspend the payment of allowances to Sinn Fein MPs for 12 months. The effect of this motion, and delegated legislation removing the payment of Short Money type allowances to the Sinn Fein party in the Assembly, have since been rescinded by a Commons motion on 9 February 2006 restoring allowances to individual Sinn Fein MPs and creating a new type of allowance for representative duties. Assembly allowances were restored with effect from 1 November 2005. Further information is available in Library Standard Note no 1667 *Sinn Fein and access to Commons facilities*.

The general election took place on 5 May 2005. Turnout in Northern Ireland was 68.6%, the highest of all UK regions. The Democratic Unionists won nine seats, half of the Northern Ireland total. They gained four seats from the Ulster Unionists: East Antrim, Lagan Valley, South Antrim and the seat of the Ulster Unionist's leader David Trimble in Upper Bann. The Ulster Unionist lost five of their six seats and their vote share fell by 9.0% points ⁴

Following the loss of his seat in the General Election Mr Trimble resigned as leader of the Ulster Unionists. The DUP received more votes than any other party in Northern Ireland for the first time at a General Election. Their share of the vote increased by 11.2% points to 33.7%. Sinn Fein also increased their share of the vote, and took Newry & Armagh from the SDLP. They came second in Northern Ireland in terms of both seats and votes won, both for the first time at a General Election. The SDLP gained South Belfast from the Ulster Unionists, leaving them unchanged in total seat numbers. Their share of the vote fell and they came fourth in terms of votes received. Full details are given in Library Research Paper 05/03.

D. IRA announcement July 2005

On 28 July 2005 the IRA formally ordered an end to its armed campaign and said it would pursue exclusively peaceful means.⁵ The IRA statement was welcomed by the British and Irish Governments on 28 July. The new Northern Ireland Secretary, Peter Hain, stated in a letter to MPs that the IMC had been asked to prepare an additional report in January 2006 to check on progress with decommissioning.⁶ On 1 August Mr Hain issued a written statement in which he set out a two year plan for de-militarisation, contingent on the security situation.⁷

⁴ Research Paper 05/03, *General Election 2005*, p17

⁵ "IRA statement in full", 28 July 2005 *BBC News*

⁶ "Hain responds to IRA statement" *Northern Ireland Office* 28 July 2005

⁷ "Northern Ireland Secretary's statement" *BBC News* 1 August 2005

On 26 September General John de Chastelain, chairman of the Independent Commission on Decommissioning, established under the *Northern Ireland Arms Decommissioning Act 1997*, announced that the IRA had completed its decommissioning. A report was sent to the British and Irish Governments and was deposited in both Houses.⁸ On 19 October 2005 the Independent Monitoring Commission, established under the *Northern Ireland (Monitoring Commission etc) Act 2003*, published its seventh report.⁹ It made some encouraging comments in relation to the IRA after the 28 July announcement, but stated:

Clearly we are looking for cumulative indications of changes in behaviour over a more sustained period of time.¹⁰

The Government asked this Monitoring Commission to produce an extra report in January 2006 to reinforce the verification process, following the IRA statement of 28 July.¹¹

The raid by the police of Sinn Fein offices in the Assembly building at Stormont on 4 October 2002 had contributed to the decision to suspend devolution. On 8 December 2005 the Director of Public Prosecutions announced that the prosecution of three people allegedly involved in the Sinn Fein spy ring at Stormont would be dropped, as prosecution was no longer in the public interest. The Northern Ireland Office statement noted that this was solely a matter for the prosecuting authorities, but stated that the police operation did lead to the recovery of sensitive documents removed from government offices.¹² In December, one of the defendants, Denis Donaldson, former head of Sinn Fein administration at Stormont, revealed that he had worked for British intelligence and the RUC/PSNI Special Branch since the mid 1980s. He made a press statement on 18 December 2005.¹³ On 4 April 2006 Denis Donaldson was found dead in the Republic. Mr Hain stated that the apparent murder would not derail the efforts of the British and Irish Governments.¹⁴

In December 2005 Mr Hain announced in an interview with the *Belfast Telegraph* that he could not conceive of 'the people in Northern Ireland agreeing in May 2007 to go along with taking part in a pure charade of an election for a second time to a suspended Assembly'.¹⁵

At the end of January 2006 the Independent International Commission on Decommissioning presented a report to the British and Irish Governments. It concluded that in the absence of evidence to the contrary, its assessment of 26 September regarding IRA arms remained correct.¹⁶

⁸ Dep 05/1227 HINF2005/1593 *Report of the Independent Commission on Decommissioning addressed to Peter Hain and Michael McDowell* 26 September 2005

⁹ Available at <http://www.independentmonitoringcommission.org/documents/uploads/7th%20%20IMC%20%20Report.pdf>

¹⁰ *Seventh Report* para 3.18

¹¹ HC Deb 13 October 2005 c449-452

¹² Quoted in "Stormontgate- securocrats pulled down executive says spy accused" 9 December 2005 *Irish News*

¹³ "Donaldson's statement" 18 December 2005 *Belfast Telegraph*

¹⁴ "Agent's death 'won't stall peace" *BBC News* 5 April 2006

¹⁵ "Sinn Fein and Hain" 10 December 2005 *Belfast Telegraph*

¹⁶ available from <http://cain.ulst.ac.uk/events/peace/decommission/iicdreports.htm>

The Eighth Report from the International Monitoring Commission was published on 1 February 2006. It reviewed paramilitary activity, and concluded as follows in relation to PIRA:

3.25 To sum up, the position is not entirely straightforward. We see a number of definite signs of the organisation moving in the direction indicated in the 28 July statement.

We see other signs which we would describe as neutral and some which are more disturbing.¹⁷

Mr Hain announced the publication of the report in a Written Ministerial Statement on 1 February, noting that “there was enough evidence of progress to make the process of political talks meaningful”.¹⁸ A Ninth Report was published on 8 March 2006, which concentrated on the UK Government’s two year security normalisation programme, as set out in the¹⁹

E. The Northern Ireland (Miscellaneous Provisions) Bill 2005-6

All-party talks were planned based on the Comprehensive Agreement proposals published by the British and Irish Governments in December 2004 (see above).²⁰ There were press reports that there would be a time-limited initiative to restore the Assembly in shadow form, with a requirement to restore a power-sharing Executive within a certain period, such as a year.²¹

The DUP issued a policy document containing proposals for the restoration of the Assembly without the restoration of the Executive.²² This position was opposed by the SDLP who accused Sinn Fein of accepting the idea of a shadow Assembly in the negotiations preceding the publication of the British-Irish *Proposals* of December 2004 (see above).²³ Both the SDLP and the Ulster Unionist Party indicated that they would not support a new devolution settlement based on the terms in the December 2004 *Proposals*.²⁴ For Sinn Fein, Martin McGuinness stated that the Assembly should be abolished and salaries for its Members withdrawn if there was not progress towards full restoration of devolution in the next few months.²⁵

Mr Hain set a deadline of 8 March for the parties to agree legislative changes to the operation of the Assembly and the Executive. However all-party talks which were due to begin on 20 February did not progress, due to a failure to agree on the sequence of talks.²⁶

¹⁷ HC 870 2005-6 available at http://news.bbc.co.uk/1/shared/bsp/hi/pdfs/01_02_06_imc_eighth_report.pdf

¹⁸ “Positive IMC report shows IRA moving in the right direction” 1 February 2006 *Northern Ireland Office PN*

¹⁹ See http://www.independentmonitoringcommission.org/documents/uploads/9th_IMC%20pdf.pdf

²⁰ “Joint statement by Prime Minister Tony Blair and Taoiseach Bertin Ahern! 26 January 2006 *Northern Ireland Office Press Notice*

²¹ “Blair plans restored NI Assembly without Executive” 23 February 2006 *Irish Times*

²² *Facing Reality: A Truthful Assessment: The Policy Context The Best Way Forward* DUP January 2006

²³ “SF has accepted Shadow Assembly-Eddie McGrady” 21 February 2006 SDLP Press Release

²⁴ “New deal is the only way forward” parties warn” 17 February 2006 *Belfast Telegraph*

²⁵ “Call to bring back Stormont or stop salaries” 20 February 2006 *Belfast Telegraph*

²⁶ “Row as NI talks session collapses” *BBC News*; “Sinn Fein ‘were not excluded from Assembly talks’ says NIO” 21 February 2006 *Belfast Telegraph*

The *Northern Ireland Act 2000 (Modification) Order 2006* extended the power to legislate on Northern Ireland matters by Order in Council for a further six months until 14 October 2006. This was examined by both Houses in March 2006.²⁷ This power originally set out in the *Northern Ireland Act 2000* had already been extended six times since the suspension of devolution in October 2002.

The *Northern Ireland (Miscellaneous Provisions) Bill* had its second reading in the Commons on 13 March 2006. Among other provisions, clauses 10-12 of the *Northern Ireland (Miscellaneous Provisions) Bill* would have given the Secretary of State power to bring forward by order the date of the Northern Ireland Assembly election due in May 2007. Under section 31 of the *Northern Ireland Act 1998*, the Assembly was designed to operate as a fixed term legislature on a four year cycle, apart from the initial election after devolution which was due to take place on 1 May 2003. Subsequently two bills were introduced in 2003 to vary the date of the next election, which finally took place on 26 November 2003.

The power in the *Miscellaneous Provisions Bill* related only to the election planned for May 2007, and would have come into effect on royal assent. The order was subject to the affirmative resolution procedure, but there was also provision to use the urgency procedure.²⁸ Under this procedure, the Secretary of State makes the order, which is subsequently laid before Parliament for approval. Subsequently the *Northern Ireland Bill* had its second reading in the Commons on 26 April, which provided for a recall of the existing Assembly and clauses 10-12 were removed from the *Northern Ireland (Miscellaneous Provisions) Bill* by Government amendment on 19 April 2006 (see below).

The Bill also makes a number of changes designed to strengthen electoral integrity in Northern Ireland and provides for the possibility of devolving police and justice functions to the Assembly and Executive; as a consequence, it creates the possibility of rotating ministers to take responsibility for these functions. For further information see Library Research Paper 06/14 *The Northern Ireland (Miscellaneous Provisions) Bill*. The Bill is due a second reading in the Lords on 7 June 2006.

The continuing cost of the Assembly has been the subject of political debate. The proposed budget allocation for the Assembly for 2006-7 and 2007-8 is £50m per annum, including Members' salaries and allowances, party allowances, research and IT, printing and publishing and secretariat salaries.²⁹

F. Joint statement on 6 April 2006

On 6 April a Joint Statement was issued by the Prime Minister and the Taoiseach, in an attempt to make progress on restoring devolution. The Joint Statement had four main proposals:

²⁷ Lords, on 29 March 2006, Commons on 28 March 2006

²⁸ The urgency procedure is used under Section 85(8) of the *Northern Ireland Act 1998*, allowing orders to be made and then approved by both Houses within 40 days

²⁹ Northern Ireland Office Priorities and Budget 2006-8 14 December 2005 which was debated in draft in Northern Ireland Grand Committee on 15 November 2005

- Recall of the Assembly to initiate the 6 week period within which a First Minister and Deputy First Minister should be elected
- Intensive party talks to ensure an Executive on the d'Hondt model
- Second Assembly session from 1 September to 24 November, should no agreement be reached in June
- Cancellation of Assembly member salaries and allowances on 24 November, should no agreement be reached
- If no agreement, then the British and Irish Governments would develop partnership arrangements to develop the structure and functions of the Belfast Agreement

The full text of the Joint Statement by the Prime Minister and the Taoiseach made at Armagh, 6 April 2006 was deposited in the House and is available on the internet.³⁰ The main points were as follows:

4.The Assembly will therefore be recalled on 15 May. Recognising that it has not sat for nearly four years, it seems sensible to give the Assembly a short period in which to prepare for government as envisaged by paragraph 35 of Strand One of the Good Friday Agreement. The Assembly's primary responsibility would be to elect a First and Deputy First Minister as soon as possible, to allocate Ministerial posts under the d'Hondt formula and to make other preparations for Government within Northern Ireland and in the North/South and East/West fields.

5.As soon as the Assembly elects a First and Deputy First Minister on a cross-community basis and forms an Executive, power will automatically be devolved to the Assembly, as happened in December 1999, and all its functions will be resumed. At that point the British Government's power to suspend the Assembly will lapse for good.

6.If, despite best efforts, the Assembly is not able to elect a First and Deputy First Minister on a cross-community basis within the normal six week period, we would be prepared to allow a further period of 12 weeks after the summer recess in which to form an Executive and we would expect it to do so at the earliest opportunity within this timeframe.

7.We are also conscious that all parties have made proposals for the better functioning of the institutions and that discussion on these issues has not yet concluded. It would be open to the parties to continue these discussions with each other and with the Governments, as appropriate, so that consideration could be given to proposals for the implementation of the Agreement, including changes to Strands 1 to 3 in the context of a commitment by all involved to participate in a power-sharing Executive.

8.It would of course also be open to the Assembly to prepare for Government by considering issues which the Executive will have to deal with, such as future economic strategy, water rates, public administration and education. Ministers would naturally take account of views which command cross-community support within the Assembly.

³⁰ at <http://www.nio.gov.uk/media-detail.htm?newsID=12944> MGP 06/994 The text of the speeches made by the Prime Minister and the Taoiseach was set out in a Written Ministerial Statement. HC Deb 19 April 2006 c20-22WS

9. While it is reasonable to give the Assembly a little more time, there must be a clear limit. We said in January that a power-sharing Executive must be formed this year. If by 24 November the Assembly has failed to achieve this, we do not believe that any purpose would be served by a further election at that point or a few months later in May 2007. We do not think that the people of Northern Ireland should be asked to participate in elections to a deadlocked Assembly. There would be no choice but to cancel salaries and allowances for MLAs and to defer restoration of the Assembly and Executive until there is a clear political willingness to exercise devolved power. The Governments would, of course, stand ready to facilitate full restoration when all parties indicate such willingness.

10. If restoration of the Assembly and Executive has to be deferred, the Governments agree that this will have immediate implications for their joint stewardship of the process. We are beginning detailed work on British-Irish partnership arrangements that will be necessary in these circumstances to ensure that the Good Friday Agreement, which is the indispensable framework for relations on and between these islands, is actively developed across its structures and functions. This work will be shaped by the commitment of both Governments to a step-change in advancing North-South co-operation and action for the benefit of all.

11. The British Government will introduce emergency legislation to facilitate this way forward. It will set out clearly the limited timescale available to the Assembly to reach agreement. In parallel with the recalling of the Assembly, we will engage intensively with the parties to establish the trust necessary to allow the institutions not only to function but to flourish. There is a great deal of work to be done. The Governments will do all in their power to restore the institutions and return devolved Government to those elected by the people of Northern Ireland. But the final decisions are for the parties. We hope they will seize the opportunity to move forward.

In responses to press questions after the statement the Prime Minister and the Taoiseach denied suggestions that a shadow Assembly was being created. The Taoiseach was quoted as saying: "the Assembly is being recalled on 15 May for a finite period with the responsibility of electing a First and Deputy First Minister and forming an Executive that has all the powers for the purpose, so it's not a shadow Assembly."³¹ The reactions of the Northern Ireland parties to the Joint Statement may be found on the BBC website.³² Mr Paisley stated:

The DUP will not be forced, rushed or bullied into accepting any level of IRA criminality. Currently there is no evidence that Sinn Fein/IRA will be any further advanced in giving up criminality in November.

Given the reality that there will be no executive formed for the foreseeable future the best way forward is to get working in the assembly.

Mark Durkan, the SDLP leader responded:

³¹ "PM's statement on Irish power-sharing" No 10 website PM speeches 2006 at <http://www.number10.gov.uk/output/Page9290.asp>

³² "Reaction to Northern Ireland devolution plan" *BBC News* 6 April 2006 <http://news.bbc.co.uk/1/hi/uk/4884338.stm>

In particular, we are concerned that the secretary of state will still seek in that legislation a power to change the Good Friday Agreement at will. People should be clear about where all these difficulties about a shadow assembly have come from. A shadow assembly was agreed between the DUP and Sinn Fein in 2004 in the so called comprehensive agreement. We are still living with the damage caused by that bad deal."

Gerry Adams saw the Statement as a positive outcome, while Reg Empey, for the UUP, welcomed the recall of the Assembly.

We urgently need to have an input into, and make changes to, direct rule decisions on education, water rates and the Review of Public Administration to name but three. This is our job.³³

G. The Northern Ireland Bill 2005-6

On 18 April Mr Hain announced to the Commons that he would bring forward emergency legislation to enable the Assembly to meet on 15 May, with an agreement to restore the institutions of devolved government by 24 November 2006:

The joint statement indicated that the Northern Ireland Assembly would be recalled on 15 May, with a view to reaching agreement to restore the institutions by 24 November. Last week, I nominated a new Presiding Officer, Eileen Bell. I have every hope that she will soon be overseeing the transition of the Assembly to full devolution. A woman of real courage, strength and ability, she is highly regarded by all, and could be the symbol of a new political era of co-operation and progress, leaving behind sectarianism and division.

We will aim to discuss with the parties next week how the Assembly will function after 15 May, including its standing orders. I will also be introducing an emergency Bill on 20 April, for taking through the House next week. I know that this is an extremely tight timetable, but the Bill will have only about half a dozen clauses in total and hon. Members will appreciate the urgency. We need to get the parties back in the Assembly and talking now to provide them with the maximum opportunity for securing agreement by 24 November at the very latest.

The Bill will arrange for the Assembly to be recalled with the express purpose that it sets about electing a First and Deputy First Minister on a cross-community basis, and then forms an Executive, under the d'Hondt formula. As soon as that is done, power will automatically be devolved, as happened in December 1999, and all the Assembly's other functions will be resumed.

Our hope and intention is that the Assembly will elect an Executive within six weeks, as envisaged by paragraph 35 of strand 1 of the Good Friday agreement. However, if that time frame proves to be too short, the Assembly will have a further 12-week period after the summer in which to complete the task. During that period, it will be open to the parties to engage in further discussion, both among themselves and with the Government, on improving the running of the institutions. The Assembly will also have opportunities to prepare for government by considering issues that are crucial to the future of Northern Ireland, such as the economy and reforms to education, water charges and public administration.

The Bill will have obvious implications for Orders in Council. Some of the forthcoming Northern Ireland legislation on transferred matters will obviously be appropriate for

³³ *ibid*

consideration by the restored Assembly, and Ministers will naturally be willing to take account of views on such matters, if they are provided on a cross-community basis. It would be preferable to all democrats if the parties were quickly able to take up the mantle of government so that the decisions that affect the everyday lives of people in Northern Ireland were taken by locally accountable politicians. However, in the meantime, I will not delay implementing vital reforms that this Government consider essential to the better running of Northern Ireland. While those decisions may not always be popular, they are necessary in the public interest, to put Northern Ireland on the road to becoming world class.

Mr Hain set out the alternative, should the parties not reach agreement by that date:

If, however, the Assembly has been unable to achieve a power-sharing Executive by 24 November, there will be no choice but to cancel Assembly Members' salaries and allowances forthwith, and to cancel the election due in May 2007. It would be absurd to elect Members unwilling to discharge their duties to an Assembly that would not have sat for more than four and a half years.

Restoration of the Assembly and Executive would then be deferred until there was a renewed political willingness to exercise devolved power. The two Governments would then continue their commitment to developing north-south co-operation and structures as set out in the Good Friday agreement. In this scenario, the agreement would remain very much alive.³⁴

In response to questions from the Conservative spokesman, David Lidington, he emphasised that there was 'no question of joint authority or joint governance'.³⁵ He also stated that there would be further emergency legislation later in 2006 to amend the Belfast Agreement provisions, should the parties reach agreement:

I am grateful for the hon. Gentleman's general support on the emergency legislation and will be happy to take him through the detail when we have an opportunity to do so. I am being very cautious about Orders in Council; I know there is sensitivity to them in Parliament, both in this place and the House of Lords. However, I want some flexibility to make progress. I had hoped to include in the Bill provision by Order in Council, should we be in a position to reach a final agreement, and also to amend the strands 1 to 3 arrangements, which everybody understands will be necessary in terms of the original architecture; for example, the Democratic Unionist party has made its position clear.

I had hoped to include an Order-in-Council provision in the Bill, but it seems that there is opposition to that, so we shall have to look at emergency legislation later in the year, should there be the conditions for the necessary all-party agreement and the restoration of the institutions that we desire. I shall obviously consult the hon. Gentleman on all the detail as we go through the process.³⁶

The Bill was introduced and published on 20 April 2006. Clauses 1 and 2 provide for the restoration of devolved government through the selection of Ministers to form the Executive, with detailed arrangements set out in Schedule 2. Only at this point would the suspension of devolution be ended, since the *Northern Ireland Act 2000* would continue to operate even

³⁴ HC Deb 18 April 2006 c19-21

³⁵ *ibid* c24

³⁶ *ibid* c25

after this Bill received royal assent. The Government intended that the Bill would come into effect before 15 May 2006 to enable an Assembly without legislative powers to convene on that day. The Secretary of State was given wide powers to appoint a Presiding Officer and to draft an initial set of Standing Orders.

Where no agreement is reached on the establishment of an Executive, under Schedule 3 the Secretary of State would have power to postpone the election of the Assembly due in May 2007 and to dissolve the Assembly indefinitely.

The *Northern Ireland Bill* passed through all its stages in the Commons on 26-27 April and completed its Lords stages on 8 May. It received Opposition support.

On 19 April Government amendments to remove the clauses in the *Miscellaneous Provisions Bill* giving the Secretary of State power to bring forward the date of the next Assembly elections.³⁷ The junior minister, David Hanson stated:

Right hon. and hon. Members will understand that we have not yet published the new Bill that will give effect to the proposals outlined by the Taoiseach and my right hon. Friends the Prime Minister and the Secretary of State and that the details will not be made available until the Bill is formally introduced shortly. However, in the light of the arrangements proposed by my right hon. Friends the Prime Minister and the Secretary of State about the recall of the Assembly on 15 May and the potential end date for that recall towards the end of November—from memory, I think that it is 24 November—the procedural arrangements for calling an early election will not now be necessary. Therefore, I am happy that clauses 10 to 12 are no longer required. We want to delete them in due course, because we do not believe that they are necessary, given the new political framework proposed by my right hon. Friends. I also very much hope that the Assembly will return and that a new election, as originally envisaged when the Bill was introduced, will not now be needed, because there is a clearly identified framework.³⁸

There was some criticism from Opposition parties as to a pace of policy development leading to the amendments:

Mark Durkan (SDLP): We would love to take great comfort in the journey that these three clauses have made from being necessary as a contingency to being utterly redundant in a matter of weeks. If they had made that journey by going past the certainty of a restoration date and a known future election date for the Assembly, we could have taken such comfort, but, in the absence of such certainty, we cannot. As the hon. Member for Belfast, North (Mr. Dodds) has said, it seems that the Government are busking on this issue and hoping that whatever happens catches the eye of somebody who passes by.³⁹

The Conservative Opposition spokesman, David Lidington expressed support for the proposal to recall the existing Assembly in May.⁴⁰ The amendment also received support

³⁷ HC Deb 19 April 2006 c190

³⁸ HC Deb 19 April 2006 c192

³⁹ HC Deb 19 April 2006c194

⁴⁰ HC Deb 19 April 2006 c195

from Lorely Burt, for the Liberal Democrats and the clauses were withdrawn without a division.

On 26 April 2006 the Tenth Report of the Independent Monitoring Commission was published.⁴¹ It was more positive than the Eighth Report, stating “ it remains our absolutely clear view that the PIRA leadership has committed itself to following a peaceful path”. The death of Mr Donaldson fell outside the period covered by the Report. The Report was welcomed by the Prime Minister and the Taoiseach. A number of NI parties raised concerns about suggestions in the report that assets acquired illegally by PIRA might be at the disposal of SF for electoral campaigning.⁴²

H. Recall of the Northern Ireland Assembly

The Secretary of State issued standing orders which would govern the conduct of the Assembly, including the procedures involving designation of identity for the purposes of cross community votes.⁴³ This was a subject of some debate during the passage of the Northern Ireland Bill, since designation is crucial for the selection of the Executive via the d'Hondt mechanism. ⁴⁴ Lord Rooker, for the Government, announced during Lords Committee that the draft standing orders would be amended to take account of potential variations in party strengths during the life of the Assembly:

As noble Lords will understand better than I do, the Northern Ireland Act 1998 provides for party strengths to be assessed, for d'Hondt purposes, on the first day that the devolved Assembly meets. That is necessarily very close to the date that d'Hondt is run because standing orders for the devolved Assembly require it to happen within seven days. Our draft standing orders stayed in line with the 1998 Act by setting party strengths at day-one levels, but, under the arrangement that we plan, d'Hondt would not run until after a successful election had taken place for the First Minister and Deputy First Minister. We hope that that will come early in the life of the Assembly but it could come later. So, on reflection, we think it would be more faithful to the devolved arrangements to amend the draft standing orders—that is, the draft standing orders published last week, which will be revised this week—to ensure that party strength will be assessed on the date that d'Hondt is run. You cannot get more up to date than that and it allows for some of the things that the noble Lord, Lord Maginnis, mentioned at Second Reading last week to take place. ⁴⁵

The Assembly met on 15 May. Eileen Bell, from the Alliance Party, had been nominated by the Secretary of State as Presiding Officer.⁴⁶ There was some initial developments in that David Ervine, leader of the Progressive Ulster Unionists (a party with links to protestant paramilitaries) announced that he would join the Ulster Unionist Party Assembly Group. The move was widely interpreted as improving the position of the UUP under the d'Hondt

⁴¹ See http://www.nio.gov.uk/independent_monitoring_commission_tenth_report.pdf

⁴² “SF dismisses report while parties raise funds issue” 27 April 2006 *Irish Times*, cited in Northern Ireland Devolution Monitoring Report May 2006, p22, Constitution Unit, University College London

⁴³ MGP 06/1189 May 2006. For further information see Library Research Paper 06/23 *The Northern Ireland Bill*

⁴⁴ See for example, Lord Maginnis HL Deb 2 May 2006 c427

⁴⁵ HL Deb 8 May 2006 c724-5

⁴⁶ “Hain appoints Eileen Bell as Presiding Officer” 10 April 2006 *Northern Ireland Office Press Notice*

mechanism, enabling the Party to hold a third ministry at the expense of SF.⁴⁷ The Speaker told the Business Committee that she was taking legal advice about the move.⁴⁸

On 22 May Gerry Adams formally nominated Ian Paisley as First Minister and Martin McGuinness as Deputy First Minister. The nomination was immediately rejected by the DUP.⁴⁹ Attention then moved to the establishment of an Assembly committee to discuss the return of devolution, as promoted by the Secretary of State.⁵⁰ The Secretary of State issued a direction for the Assembly to establish a committee. However, the Preparation for Government Committee met on 5 June but failed to agree a chairperson.⁵¹ Mr Hain also announced that the Assembly would hold a plenary debate on 13 June to discuss industrial rating.⁵² There have already been two amendments to the Assembly's Standing Orders.⁵³

On Monday 12 June Mr Hain formally issued a direction to nominate the two deputy speakers, Francie Molloy from Sinn Fein, and Jim Wells of the DUP, to chair the Committee on an alternate basis. The Committee met on 12 and 13 June.⁵⁴

I. Review of Public Administration

This review was published in November 2005, and included plans to reduce the number of local councils from 26 to 7 and to rationalise the health and social services and library and education boards. The *Local Government (Boundaries) (Northern Ireland) Order 2006* has now been enacted, providing for a boundaries commissioner to make the necessary changes.⁵⁵ In March the Government announced that the number of NDPBs and agencies would be reduced from 154 to 75. The expected savings (£200m) would be retained within Northern Ireland and a Public Services Commission would be established to ensure that staff affected by the changes are fairly treated.⁵⁶

⁴⁷ "Lawyers probe Ervine's shock UUP move" 16 May 2006 *Belfast Telegraph*

⁴⁸ Business Committee Minutes 16 May 2006 at http://www.niassembly.gov.uk/theassembly/business_committee/bus_comm_minutes060516.htm

⁴⁹ "Assembly stalls as DUP refuses to sit with Sinn Fein" 23 May 2006 *Belfast Telegraph*

⁵⁰ "Devolution Committee is the main priority, says Hain" 23 May 2006 *Belfast Telegraph*

⁵¹ "Committee problems 'raise doubts'" 5 June 2006 *BBC News*

⁵² "Adams anger over Assembly U-turn" 2 June 2006 *BBC News*

⁵³ See http://www.niassembly.gov.uk/theassembly/amend_so_main.htm

⁵⁴ "Wells to chair committee meeting" 13 June 2006 *BBC News*

⁵⁵ SI no 1253/2006

⁵⁶ "Hain cuts through bureaucracy with quango cull" 21 March 2006 *Northern Ireland Office* and 8 March 2006 *Northern Ireland Office*