



Political Developments in Northern Ireland since June 2006

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This note offers a summary of developments in Northern Ireland since June 2006. For an earlier chronology of events, please see Standard Note no 4067 *Political Developments in Northern Ireland since February 2006*. For greater detail on the St Andrews Agreement and the legislation which followed see Library Research Paper 06/56 *The Northern Ireland (St Andrews Agreement) Bill 2006-7*.

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A. A summary of political developments since April 2006

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. The most recent Assembly elections took place on 26 November 2003, but the Assembly did not convene, since it remained suspended. Assembly Members continue to receive roughly 70 per cent of their pay and receive allowances. Full detail is given in Library Standard Note no 4067 *Political Developments in Northern Ireland since February 2006*.

A review of the Belfast Agreement with all the political parties began in early 2004, but 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.¹ 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 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.² These were entitled the *Proposals by the British and Irish Governments 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 *Northern Ireland Act 2006*, which received royal assent on 8 May 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.

The *Northern Ireland (Miscellaneous Provisions) Act 2006* made changes designed to strengthen electoral integrity in Northern Ireland and provided for the possibility of devolving police and justice functions to the Assembly and Executive; as a consequence, it created the possibility of rotating ministers to take responsibility for these functions. For further

¹ <http://www.nio.gov.uk/index/media-centre/media-detail.htm?newsID=10254>

² *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

information see Library Research Paper 06/14 *The Northern Ireland (Miscellaneous Provisions) Bill*. There are provisions to increase the transparency of the donations process by requiring Northern Ireland parties to submit reports to the Electoral Commission from October 2007. At present, an order under the *Political Parties, Elections and Referendums Act 2000* disapplies the legislation from application to Northern Ireland until 2007. For a transitional period until 31 October 2010, the Electoral Commission would not disclose information on donations provided to it by Northern Ireland parties.

B. Summoning of the Assembly under the *Northern Ireland Act 2006*

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.³ 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.⁴ 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.⁵

The Assembly met on 15 May. Eileen Bell, from the Alliance Party, had been nominated by the Secretary of State as Presiding Officer.⁶ There was some initial developments in that David Ervine, leader of the Progressive Ulster Unionists (PUP- 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 mechanism, enabling the Party to hold a third ministry at the expense of SF.⁷ The Speaker told the Business Committee that she was taking legal advice about the move.⁸ On

³ MGP 06/1189 May 2006. For further information see Library Research Paper 06/23 *The Northern Ireland Bill*

⁴ See for example, Lord Maginnis HL Deb 2 May 2006 c427

⁵ HL Deb 8 May 2006 c724-5

⁶ "Hain appoints Eileen Bell as Presiding Officer" 10 April 2006 *Northern Ireland Office Press Notice*

⁷ "Lawyers probe Ervine's shock UUP move" 16 May 2006 *Belfast Telegraph*

⁸ Business Committee Minutes 16 May 2006 at http://www.niassembly.gov.uk/theassembly/business_committee/bus_comm_minutes060516.htm

11 September she made a Speaker's ruling which concluded that the grouping of the PUP with the UUP could not be considered as a party in the Assembly:

The characteristics of a political party under the Political Parties, Elections and Referendums Act 2000 can be summarised as: a short, suitable name; a headquarters, or at least an address for the purpose of communication; officers of the party, including at least a leader, a treasurer and a contact person, called a "nominating officer", for the purpose of liaising with the Electoral Commission and others; a constitution; a scheme for financial support of the party; and an intention to contest elections.

In making a decision about any future list for publication, I shall require a party to have all those characteristics. From the information available, I do not consider that the Ulster Unionist Party Assembly Group (UUPAG) has yet demonstrated all those characteristics. I trust that Members will find this clear and helpful.⁹

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.¹⁰ Attention then moved to the establishment of an Assembly committee to discuss the return of devolution, as promoted by the Secretary of State.¹¹ 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.¹² Mr Hain also announced that the Assembly would hold a plenary debate on 13 June to discuss industrial rating.¹³ There have already been two amendments to the Assembly's Standing orders.¹⁴

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.¹⁵ The Assembly went into recess on 7 July 2006, but the Committee continued to meet with attendance from the DUP and SF. A subgroup on the Economic Challenges facing Northern Ireland was established, and has issued a report. Minutes of the Committee are available on the Assembly website, although the verbatim report (Hansard) is not comprehensive, since at times the Committee deliberated in private.¹⁶ It produced a report on institutional issues in September 2006 which reviewed each of the Belfast Agreement's institutions and made a series of proposals.¹⁷ It considered revisions to the Ministerial Code of 2000 put forward by the Office of the First and Deputy First Minister (OFMDFM) and concluded that aspects should be given statutory force.¹⁸

⁹ Assembly Official Record 11 September 2006, available at <http://www.niassembly.gov.uk/theassembly/Plenary/060911.htm>

¹⁰ "Assembly stalls as DUP refuses to sit with Sinn Fein" 23 May 2006 *Belfast Telegraph*

¹¹ "Devolution Committee is the main priority, says Hain" 23 May 2006 *Belfast Telegraph*

¹² "Committee problems 'raise doubts'" 5 June 2006 *BBC News*

¹³ "Adams anger over Assembly U-turn" 2 June 2006 *BBC News*

¹⁴ See http://www.niassembly.gov.uk/theassembly/amend_so_main.htm

¹⁵ "Wells to chair committee meeting" 13 June 2006 *BBC News*

¹⁶ http://www.niassembly.gov.uk/theassembly/CPFG/cpfg_commpage.htm

¹⁷ http://www.niassembly.gov.uk/theassembly/CPFG/CPFG_Reports/report_institutional_issues.pdf The

Secretary of State was required to issue a direction to ensure the printing of the report

¹⁸ For general background on UK Ministerial Codes see Library Standard Note no 3750

On 29 June 2006 the Prime Minister, Tony Blair and Taoiseach leader, Bertie Ahern met a delegation from the DUP, SDLP, Sinn Fein, Ulster Unionist and Alliance at Stormont in order to review the progress towards the restoration of devolved institutions in Northern Ireland by November. The two Governments announced the publication of a government work plan and a timetable in the run up to full restoration in November.¹⁹ The reaction of the Northern Ireland parties to the joint statement may be found on the BBC website²⁰:

In a written ministerial statement on the 24 July 2006, Peter Hain informed Parliament of the progress towards devolution in Northern Ireland²¹:

On 15 May, members of the Northern Ireland Assembly were recalled to participate in a process to secure the full restoration of the institutions in Northern Ireland on or before 24 November. The Assembly rose on 7 July for summer recess and will reconvene on 4 September.

Following their discussions, with the Northern Ireland political parties in Parliament Buildings, Stormont on 29 June, the Prime Minister and Taoiseach issued a statement which again reiterated their commitment to the November deadline and called for all sides to commit to a period of genuine and frank political engagement on the outstanding issues in the months ahead.

A work plan was also published alongside the statement in order to assist the parties in their work between now and the November deadline. Both the statement and the work plan have been placed in the Libraries of the House.

The plan allows for the Preparation for Government Committee to continue its valuable work during the summer recess and I have recently provided for the creation of sub-groups within the Committee to deal with the issues of devolution of justice and policing, changes to the institutions and the economic challenges facing Northern Ireland.

I have made clear previously that, in the event that devolved government is not restored on or before 24 November, all MLAs' salaries and allowances will be cancelled with immediate effect. I have repeatedly stressed that it remains the Government's firm hope that devolution can and will be restored by that deadline but I wish to ensure that MLAs have the fullest of opportunities to arrange their affairs in advance. My officials have therefore written to all MLAs explaining the implications of the termination of allowances for MLAs' in respect of their responsibilities as employers of their staff and for their constituency offices. A copy of this letter has been placed in the Libraries of the House.

The text of the letter sent to the MLAs can be found on the Northern Ireland Office website; <http://www.nio.gov.uk/media-detail.htm?newsID=13375>²².

¹⁹ Statement by the Prime Minister and the Taoiseach – Stormont 29 June 2006
<http://www.nio.gov.uk/media-detail.htm?newsID=13290>

²⁰ PMs devolution deadline warning, 29 June 2006, BBC News

²¹ Written ministerial statement, 24 July 2006, HC Debate c85-86WS

²² DEP 06/1439;HDEP 2006/559

The Independent Monitoring Commission published its 11th report on 6 September 2006²³. The report focused on security normalisation in Northern Ireland. The Secretary of State for Northern Ireland said

The report recognises both the dramatic changes that have been made to the security apparatus in Northern Ireland, and that these changes are commensurate with the threat and consistent with the Government's responsibility for public protection.²⁴:

The Independent Monitoring Committee's (IMC) eleventh report was published in September 2006. This dealt with the British Government's normalisation programme.²⁵ The IMC's twelfth report was published on 4 October 2006.²⁶ It offered a positive view of developments within the IRA:

2.19 We believe that what we say above, taken together, presents convincing evidence of PIRA's continuing commitment to the political path. It is implementing the policy, sometimes vigorously (though legally) so far as individual members are concerned. We refer above to the disbanding of those departments which were directly involved in the campaign of terrorism; such structures as remain are largely concerned with preserving the cohesion of the organisation and serving the wider purpose of the republican movement as a whole in a period of major change of strategy and direction. We believe that the leadership does not consider a return to terrorism as in any way a viable option and that it continues to direct its members not to engage in criminal activity.

In response to the report, Tony Blair said:

"The IRA has done what we asked it to do, and while issues like policing remain to be solved; the door is now open to a final settlement, which is why the talks next week in Scotland are going to be so important."²⁷

Ian Paisley was quoted as commenting that the assessment that the IRA "is progressively abandoning its terrorist structures shows that the pressure being brought to bear on republicans by the unequivocal policies of the DUP is working."²⁸ On 9 October he held private talks with Sean Brady, the Catholic Archbishop of Armagh and Primate of All Ireland.²⁹

Peter Hain made a written ministerial statement to the Commons on 10 October on the Eleventh and Twelfth reports:

²³ http://www.independentmonitoringcommission.org/documents/uploads/347344%20Eleventh%20Report_WEB.pdf

²⁴ <http://u.tv/newsroom/indepth.asp?pt=n&id=76529>

²⁵ Eleventh Report of the International Monitoring Commission September 2006 at <http://www.independentmonitoringcommission.org/publications.cfm?id=40>

²⁶ Twelfth Report of the International Monitoring Commission October 2006 at <http://www.independentmonitoringcommission.org/documents/uploads/IMC%2012th%20Report%20pdf.pdf>

²⁷ "IRA campaign is over, says Blair" 4 October 2006 *BBC News*

²⁸ "Blair hails IRA's clean bill of health" 5 October 2006 *Independent*

²⁹ "Paisley meets Catholic primate" 10 October 2006 *Guardian* "An amazing conversion" 10 October 2006 *Independent*

The Secretary of State for Northern Ireland (Mr. Peter Hain): The Secretary of State for Northern Ireland (Mr. Peter Hain):

...As the report concludes, the IRA is not the same organization it was three years ago. The IMC's clear conclusion is that the leadership of the IRA does not consider a return to terrorism in any way a viable option; and that it continues to direct its members not to engage in criminal activity. Importantly, the IMC assesses that the IRA has disbanded its structures which were responsible for procurement, engineering and training and has stood down volunteers.

The IMC also concludes that the leadership has maintained a firm stance against the involvement of members in criminality and taken action against members who have continued such activity. We also note that the report says that where individuals have been involved, as individuals, in criminality, that has not been sanctioned, and it should not call into question the leadership's position.

The IMC concludes that there is convincing evidence of the IRA's continuing commitment to the political path and believe that it is no longer credible to suggest otherwise. The significance of these statements cannot, and should not, be underestimated.

I also acknowledge and welcome the report's finding that the work of IRA members, along with that of loyalist paramilitaries, contributed significantly to the most peaceful marching season since the 1960s.

Like the IMC, the Government, however, believe that further progress needs to be made on the issue of policing, though welcoming the report's conclusion that the IRA leadership has accepted the need for engagement

It is also important to note the report's conclusion that some members of the UDA and UVF continue to try to move their organizations away from violence and criminality—though, like the IMC, I agree that there is much more to do if the loyalist organizations are to match the profound change brought about by the IRA.

The Government believe that the necessary progress can be made at the upcoming talks in Scotland. But, while we accept that individual parties will, quite rightly, make their own assessment, we believe this report does lay the basis for the final settlement of the conflict in Northern Ireland—and, as such, presents a unique opportunity for this generation to reach that final resolution, an opportunity the Government hope the parties will now seize.³⁰

Indications of the SF position on policing were given by their policing and justice spokesperson, Gerry Kelly, in the *Belfast Telegraph* 21 September 2006, where devolution, and agreement on the timing for a new Policing and Justice Department appeared to be pre-conditions for SF participation in the Police Service of Northern Ireland board.³¹ A special Ard Fheis (conference) of the SF party would be necessary.

The DUP issued a six point plan for devolution, including changes to the Belfast Agreement to improve ministerial accountability, commitment by SF to the rule of law, a financial package, equality measures and a timetable for devolution.³²

Recently the DUP expressed concern about the prospect of an amnesty for 'on-the-runs':

³⁰ HC Deb 10 October 2006 c7W

³¹ "Republicans move closer to playing a role in policing" 20 September 2006 *Belfast Telegraph*

³² "Robinson addresses Conservative conference" 3 October 2006 at www.dup.org.uk

Mr. Peter Robinson (Belfast, East) (DUP): Is the Secretary of State aware of how damaging it would be to the prospects for restoration— *[Interruption.]*

Mr. Speaker: Order. The hon. Gentleman should be heard on this matter.

Mr. Robinson: Thank you, Mr. Speaker.

Is the Secretary of State aware of how damaging it would be to the prospects for restoration if the Government were to return to the issue of on-the-run terrorists being given what amounts to an amnesty? Although we welcome the earlier answer from the Minister of State that no legislation is to be brought before the House, will the Secretary of State reassure the House and settle the nerves of my colleagues and me by assuring us that no other procedure will be used to allow on-the-run terrorists to return?

Mr. Hain: There is no other procedure. There is no prospect of an amnesty. The legislation was tried; it was withdrawn when support for it collapsed, not least in this House, and we have absolutely no intention of bringing legislation back. That, I think, should reassure the hon. Gentleman. What we shall look for in the next few days is delivery—not promises—from Sinn Féin on policing and respect for the rule of law, and then a commitment from all the parties to a power-sharing Executive.³³

In a speech to the British Irish Association conference in Oxford on 9 September, Peter Hain said he believed the November 24 deadline to be a “defining moment for the entire political class in Northern Ireland”³⁴. At a Labour conference fringe meeting in October, the DUP leader, Ian Paisley issued a warning that he would not be bullied into forming a devolved government with Sinn Féin in order to meet the 24 November deadline:

Secretary of State, I trust you have learnt by now that Ulster men and women will not be bullied. For too long they have suffered indescribable agonies from the heavy hand of terror unjustly exercised against them, and will not tolerate being bullied by threats from any politician. The Ulster people have demonstrated over and over again that if they are bullied they will become even more obstinate in their determination to see good overcome evil.

Secretary of State, you have attempted to apply pressure to the democratically elected representatives of Northern Ireland. Your claim that all the tough decisions on rates, RPA, education, etc, will be taken by you and your colleagues, and if the unionist politicians don't ‘do the deal’, as you refer to it, they will be left behind.³⁵

According to the periodical *Fortnight* the Labour Party took the decision to allow Labour Party members to organise in Northern Ireland, although not necessarily to contest elections.³⁶

On 9 October 2006, the DUP leader Ian Paisley met Ireland's most senior Catholic cleric, Archbishop of Armagh, Dr Sean Brady. The talks marked an important milestone in normalising community relationships in Northern Ireland in the run up to political talks at St Andrew.³⁷

³³ HC Deb 11 October 2006 c291

³⁴ Peter Hain's speech to the British Irish Association conference, 9 September 2006 http://www.nio.gov.uk/speech_by_peter_hain_to_the_british_irish_association_conference_on_9th_september_2006.pdf

³⁵ Paisley Speaks to Labour Conference, 28 September 2006, DUP website, http://www.dup.org.uk/articles.asp?Article_ID=2457

³⁶ “Labouring on” November 2006 *Fortnight*

³⁷ Paisley meets Catholic primate, 10 October 2006, Guardian

C. St Andrews Agreement October 2006

Political talks aimed at re-establishing devolution in Northern Ireland took place at Fairmont St Andrews, Scotland on 11-13 October 2006. Peter Hain made a statement to the House of Commons on 16 October 2006 on the talks at St Andrews.³⁸ He congratulated the Northern Ireland political parties on the progress made during the talks and went on to say:

Taking Northern Ireland out of a divided past and into a shared future can be done only on the basis of agreement on fundamental principles: the principle of consent; the commitment exclusively to peaceful and democratic means; the sharing of power within a stable, inclusive partnership government; equality and human rights for all; and mutually beneficial relationships developed between north and south and within these islands. Those are the fundamental principles of the Good Friday agreement, and they will always remain the bedrock and foundation of the political settlement in Northern Ireland.

The Government will introduce legislation to enact appropriate changes and other aspects of the St. Andrews agreement before the statutory November deadline, once the parties have formally endorsed the terms of the agreement and agreed on that basis to restore the power-sharing institutions.

We have now set out a clear timetable for restoration. Tomorrow, a new programme for government committee will begin regular meetings at Stormont to agree priorities for the new Executive. Crucially, parties will, for the first time, together be represented at leadership level on that Committee, as on the existing preparation for government committee.

We have asked the parties to consult on the St. Andrews agreement, and to respond by 10 November to allow time for final drafting of the Bill to be taken through the House. Once that happens, and on the basis that the St. Andrews agreement is endorsed, the Assembly will meet to nominate the First Minister and Deputy First Minister on November 24, the deadline for a deal.

In January, there will be a report from the Independent Monitoring Commission. In March, the electorate will have the opportunity to endorse the St. Andrews agreement either through an election in Northern Ireland or through a referendum. We will listen to the views of all the parties before making a decision on the most appropriate way of consulting the electorate and legislating accordingly. Either way, the people will speak.

On 14 March, prospective members of the Executive will be named by their party leaders. On 26 March, power will be devolved and d'Hondt will be run.

Friday 13 October was a good day for Northern Ireland. It has the potential to be greater still—to be the foundation stone of a new Northern Ireland based exclusively on the principles of peace, justice, democracy and equality. Whatever the difficulties that lie ahead, I trust that none of those who took part in the talks at St. Andrews last week will lose sight of that great prize.

³⁸ Ministerial statement , 16 October 2006, HC Deb c587-595
<http://www.publications.parliament.uk/pa/cm200506/cmhansrd/cm061016/debtext/61016-0003.htm#0610167000003>

The Agreement bears some resemblance to the Comprehensive Agreement issued by the British and Irish Governments in December 2004 when the Northern Ireland parties failed to reach agreement. Similarities include the acceptance of the need for a statutory ministerial code and greater accountability of individual Ministers to the Executive and Assembly; new mechanisms for the appointment of the First and Deputy First Minister, the repeal of the *Northern Ireland Act 2000*, which allows for the suspension of the Assembly, amendments to the North South institutions and to the British Irish Council, and commitments by Sinn Fein to support the Northern Ireland Police Service.

Annex A of the *St Andrews Agreement* set out *Practical Changes to the Operation of the Institutions*, discussed below in Part III. Other annexes referred to a financial package for Northern Ireland and future security arrangements there. Annex B dealt with a package of issues on human rights, equality, victims and statutory commitments on the promotion of the Irish language and the Ulster Scots language, heritage and culture.

The *St Andrews Agreement* envisaged that parties would indicate their acceptance of the proposals by 10 November, and then the Assembly would meet to nominate the First and Deputy First Minister on 24 November. However, devolution was no longer expected to take place immediately, as envisaged in the *Northern Ireland Act 2006*. Instead, a new Programme for Government Committee would agree all the necessary changes relating to ministerial responsibilities by 26 March, with the result that the rest of the Executive could be selected using the d'Hondt procedure and the Executive would function immediately on that date.

The proposed timetable of events was given at Annex D, as follows:

TIMETABLE FOR IMPLEMENTATION OF THE ST ANDREW'S AGREEMENT

13 October	Governments publish St Andrews Agreement Parties consult, including through the DUP Assembly group, the Sinn Fein Ard Comhalde and other appropriate party bodies, on the St Andrew's Agreement and respond by 10 November
17 October	New Programme for Government Committee begins regular meetings to agree priorities for new Executive with parties represented at leadership level
20/21 November	Legislation at Westminster to give effect to the St Andrew's Agreement, including practical changes to the institutions (Annex A)
24 November	Assembly meets to nominate FM/DFM
January	IMC Report
March	Endorsement by the electorate of the St Andrew's Agreement
14 March	Members of the Executive nominated by party leaders
26 March	Power devolved and d'Hondt run

Failure to agree to establish the Executive will lead to immediate dissolution of the Assembly, as will failure to agree at any stage, and the Governments will take forward new partnership arrangements on the basis previously announced.

Peter Hain made a statement to the Commons on 16 October 2006. He said:

There were two main issues to be resolved at St. Andrews if we were to achieve restoration of the power-sharing Executive: the need for support for policing and the rule of law across the whole community, which would enable, in due course, the safe devolution of policing and justice to the Assembly; and changes to the operation of the Good Friday agreement's institutions.³⁹

The Conservative spokesman, David Lidington offered his party's support in principle for the forthcoming legislation but asked about the timing of the Ard Fheis needed for Sinn Fein to offer formal support to the PSNI and about changes to the pledge of office. Mr Hain noted:

On the pledge of office, the hon. Gentleman will see in annexe A, paragraph 8, that the preparation for government committee is being asked to consider that matter. It is important for at least four of the parties that the issue be addressed. We shall have to see what emerges from that consideration and where we can take it.

The hon. Gentleman asked when an ard fheis will be called. That is a matter for Sinn Fein's internal procedures, but the agreement contains a reference to the Sinn Fein executive, the ard comhairle, which needs to meet sooner rather than later. He is right to say that we will need to know by 10 November whether we are in business—whether we are in a position to proceed with the emergency Bill with all-party support, or not. That will be crucial.⁴⁰

Lembit Opik, the Liberal Democrat spokesman, expressed concern that the cross-community voting provisions for the appointment of the First Minister and Deputy First Minister were to be amended. Ian Paisley commented on the importance of the full recognition and support for the PSNI. Mark Durkan, for the SDLP, emphasised wider issues such as water rates reform and the review of public administration.⁴¹

The first scheduled all-party talks at Stormont were postponed on 17 October 2006 after DUP leader, Ian Paisley refused to meet with Sinn Fein president Gerry Adams.⁴² The DUP members were increasingly unhappy over government assurances regarding the pledge ministers must swear before taking office. The DUP wanted a commitment that all executive ministers would accept an oath of office supporting the Police Service of Northern Ireland and the rule of law before taking office on November 24.⁴³

On 25 October the House of Lords Grand Committee considered the Victims and Survivors (Northern Ireland) (Order) 2006. In a statement Lord Rooker said of the order⁴⁴:

³⁹ HC Deb 16 October 2006 c588

⁴⁰ HC Deb 16 October 2006 c592

⁴¹ *ibid* c594-7

⁴² Paisley 'unlikely' to meet Adams, 17 October 2006, BBC News

⁴³ Paisley pulls out of Stormont talks, 17 October 2006, Guardian

⁴⁴ HL Deb 25 October 2006 cGC1-GC11

The broad purpose of the draft Victims and Survivors (Northern Ireland) Order 2006 is to help those who have suffered so much as a result of the Troubles in the Northern Ireland over the last 40 years.

The Government believe that victims and survivors deserve a strong voice that will draw attention to their needs and which will help to inform the future of government policy. Giving victims and survivors a strong voice is the substance of the draft order. It provides for the establishment of the position of Commissioner for Victims and Survivors. The commissioner will have a general role in promoting the interest of victims and survivors and the draft order sets out various ways in which this will be done.

The *Victims and Survivors (Northern Ireland) Order 2006* establishes a statutory office of Commissioner for Victims and Survivors for Northern Ireland, fulfilling one of the commitments in Annex B of the *St Andrews Agreement* on Human Rights, Equality, Victims and other issues. The appointment by the NIO of the interim Victim's Commissioner, Bertha MacDougall, in October 2005 was recently the subject of a judicial review in the High Court, where Mr Justice Girvan concluded that 'appointment powers in this case were not carried out with regard to the principle of merit' and breached section 76 of the *Northern Ireland Act 1998*.⁴⁵ He called for an inquiry into the lack of candour shown by the Northern Ireland Office to the court.⁴⁶

Following the commitments in Annex C of the *St Andrews Agreement*, on 1 November the Chancellor, Gordon Brown, held talks on a financial package for Northern Ireland if the Executive were restored. A Treasury Press Notice stated:

The Chancellor set out a funding package for the Northern Ireland Executive (NIE) worth £50 billion over the next ten years that could follow a final agreement. As part of the package, and in advance of the conclusion of the Comprehensive Spending Review, the Government would commit to at least £35 billion of funding for the NIE over the next four years. This would provide the incoming Northern Ireland Executive with certainty to plan public service delivery. To meet the long-term challenges faced by Northern Ireland, the Government would further support an updated £18 billion capital investment strategy to 2017.⁴⁷

There was some press comment to the effect that much of this package was not 'new' money and that the package did not contain concessions on water rates, the new rating system or corporation tax.⁴⁸ Annex C of the *St Andrews Agreement* sets out commitments to introducing a cap on domestic rates under the new capital values system and the possibility of further rate reliefs for pensioners on lower incomes. There is an enabling power within the *Rates (Amendment) (Northern Ireland) Order 2006*,

⁴⁵ *In a matter of an application by Brenda Downes for judicial review* 2006 NIQB 77 at http://www.courtsni.gov.uk/en-GB/Judicial+Decisions/Judgments/j_j_girc5669.htm

⁴⁶ "NIO chiefs face unwelcome glare of the spotlight" 10 November 2006 *Belfast Telegraph*

⁴⁷ "Chancellor sets out St Andrews agreement funding package if devolution is restored" 1 November 2006 HM Treasury website at http://www.hm-treasury.gov.uk/newsroom_and_speeches/press/2006/press_82_06.cfm

⁴⁸ "So what's it really worth, Gordon?" 2 November 2006 *Belfast Telegraph*

D. The Northern Ireland (St Andrews Agreement) Act 2006

On 21 and 22 November 2006 both Houses considered and passed the *Northern Ireland (St Andrews Agreement) Act 2006*. Full details of the provisions are given in Library Research Paper 06/56 *Northern Ireland (St Andrews Agreement) Bill 2006-7*, as well as further background on the St Andrews Agreement.

This Act gave effect to those elements of the *St Andrews Agreement* that required primary legislation in relation to the operation of the institutions of the *Belfast Agreement*, providing for a statutory Ministerial Code, amendments to the pledge of office and changes to the procedure for appointing First and Deputy First Ministers. The Act develops the legislative framework of the 2006 Act. The requirement to elect the First and Deputy First Minister by 25 November no longer remains in force, but a transitional period is now planned for the restoration of devolution with the new target date of 26 March 2007. Elections for a new Assembly will take place on 7 March 2007. Salaries and allowances for Members of the Assembly continue to be payable.

The Act also makes a number of amendments to the *Northern Ireland Act 1998* which gave legislative force to the *Belfast Agreement*. It decouples 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. It provides for a statutory Ministerial Code, designed to buttress individual ministerial accountability, and codifies the duties of individual ministers in relation to the North South Ministerial Council and the British Irish Council. It restricts Assembly Members' ability to change their political designation. There are 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 introducing selective education in secondary schools is amended so that a restored Assembly has powers to overturn its effect, and provisions to reconstitute district policing partnerships are included.

There were no amendments during the passage of the legislation, but continuing concerns were expressed as to the likelihood of devolution being restored in March 2007 and the timing of any Sinn Fein statement of support for policing. There were also concerns about the Bill's provisions on political identity within the Assembly. 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.⁴⁹ 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*:

What that would mean in effect is that if we had the Assembly election and a majority of the Assembly Members returned were unionists, but the unionist vote was spread over several parties with the result that one nationalist party had more Assembly Members than any one of the unionist parties, that nationalist party would nominate

⁴⁹ "Senior DUP man warns of 'time bomb' in Agreement" 17 November 2006 *Belfast Telegraph*

the Deputy First Minister. So, having set out a process in new Section 16A whereby the First Minister will come from the largest designation—the largest group as between unionists and nationalists—it is now suddenly turned on its head if, in the vagaries of the election, one nationalist party gets more Assembly Members than any one of the unionist parties. To put it crudely, and I am sorry to have to do so, it seems that this is a simple fix. It was probably done at the behest of Sinn Fein and the DUP, the result of which will enable the DUP to go around Northern Ireland saying “Vote for us or else you’ll get Martin McGuinness as First Minister”, and will enable Sinn Fein to go around the country saying “If all nationalists vote for us there’s a chance we’ll get Martin McGuinness as First Minister”. It is a crude device which people will say is the result of the law, and it will be used to polarise the electorate. You can imagine the effect that that is going to have on politics.⁵⁰

There continues to be speculation about this part of the Act; Bob McCartney of the UKUP has suggested that the changes to this clause were not opposed by the DUP because they expected to campaign for a united Unionist vote to minimise the chance that SF would be the largest Assembly party.⁵¹

Other aspects of the *St Andrews Agreement* also require legislation, and the *Justice and Security (Northern Ireland) Bill* gives effect to commitments on the Northern Ireland Human Rights Commission which were set out in Annex B of the *St Andrews Agreement*:

We will bring forward in the next parliamentary session legislation to give the Northern Ireland Human Rights Commission additional powers. These will include the power to compel evidence, access places of detention and rely on the Human Rights Act when bringing judicial proceedings in its own name. We will publish the Government’s response to the consultation carried out on these matters last year, before 24 November.

On 24 November 2006 the Northern Ireland Parties met in the Assembly to indicate their nominations for First and Deputy First Ministers. At oral questions on 22 November, the Secretary of State for Northern Ireland said:

Sir Patrick Cormack (South Staffordshire) (Con): Just to clarify this, is the Secretary of State saying that what he is looking for on Friday is an indication rather than a nomination?

Mr. Hain: I am happy to clarify that for the hon. Gentleman, particularly given his key position as Chairman of the Northern Ireland Affairs Committee. It was always the case that nobody will be taking ministerial office on Friday. Ministerial office is taken on 26 March when the pledge is taken. On Friday, it is an absolutely key and indispensable part of the St. Andrews process—let the House be in no doubt about that—that the parties make an indication to nominate for 26 March, when the pledge will be taken. Everybody knows that when they give that indication on Friday, they accept the process whereby they will be taking the pledge when they assume full ministerial office, because it will be the law of the land, assuming that the legislation receives Royal Assent. That is what should proceed on Friday; if it does not, I do not think that people will have any confidence at all in the rest of the process.⁵²

⁵⁰ HL Deb 22 November 2006 c388

⁵¹ “Emotional blackmail-the big stick” 14 December 2007 *Belfast Telegraph*

⁵² HC Deb 22 November 2006 c530

When the Assembly met on Friday 24 November, there were some confused outcomes, especially as the sitting was disrupted by an attempted attack on the Sinn Fein leaders by Michael Stone, the loyalist paramilitary released following the *Belfast Agreement* who had been responsible for the Milltown Cemetery massacre in 1988.⁵³ The Assembly re-convened shortly on 27 November 2006.

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."⁵⁴ He 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 the 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.⁵⁵

On 4 December the Attorney General announced an inquiry following the request from Mr Justice Girvan in his judgement on the appointment of an Interim Victim's Commissioner.

Lord Lester of Herne Hill asked Her Majesty's Government:

Whether they will set up an independent inquiry in accordance with the recommendations by Mr Justice Girvan concerning the intervention by the Northern Ireland Office in the course of judicial review proceedings in Northern Ireland challenging the appointment of Bertha McDougal as Victims' Commissioner. [HL227]

The Attorney-General (Lord Goldsmith): Mr Justice Girvan referred certain matters to me, as Attorney-General for Northern Ireland and as, "the guardian of the public interest in the due administration of justice", so that I may investigate concerns of his that arose during the conduct of judicial review proceedings in respect of the appointment of the interim Victims' Commissioner. I have concluded that that is best done by appointing an independent person to carry out a review and report to me. Mr Peter Scott QC has agreed to carry out the review and will report back to me. He will commence immediately. The terms of reference we have agreed are as follows:

⁵³ "Stone Bomb Chaos" 24 November 2006 *Belfast Telegraph*

⁵⁴ "Paisley knocks at the door of power" 24 November 2006 *Belfast Telegraph*

⁵⁵ "Paisley 'will accept nomination'" 24 November 2006 *BBC News*

Further to the referral of papers to the Attorney-General by Girvan J and in the light of his judgments of 9 November and 20 November 2006:
to examine the concerns raised by the judge; to examine in particular the way in which the Government carried out their obligation of candour in the judicial review proceedings relating to the appointment of an interim Commissioner for Victims and Survivors; and to report to the Attorney-General with recommendations to prevent a recurrence of any shortcomings identified.⁵⁶

A sub-committee of the Programme for Government committee began meeting from 8 December to consider the transfer of policing and justice powers.⁵⁷ Gerry Adams met the PSNI Chief Constable Hugh Orde for talks in December.

Over the Christmas period the Sinn Fein executive agreed to hold a special ard fheis on support for the PSNI, if there was a positive response from both Governments and the DUP over the timetable for the devolution of policing and justice.⁵⁸

But Dr Paisley commented in his New Year message that this did not give the DUP all it needed,⁵⁹ causing SF to suggest that the ard fheis might not take place. Tony Blair ended his winter holiday early to return to London. On 8 January Mr Blair made a direct appeal for Sinn Fein and the DUP to reach agreement on policing, praising the leadership of Sinn Fein in the peace process.⁶⁰ There have been reports of friction within both SF and the DUP on the restoration of devolved government.⁶¹

The Northern Ireland Transitional Assembly continued to meet, with chamber business largely consisting of private members' business. Its committees also met, with the most high profile being that of Policing and Justice. See http://www.niassembly.gov.uk/transitional/policing/policing_home.htm

The Programme for Government Committee agreed not to publish Hansard transcripts.⁶² The Secretary of State was reported to have sent a paper to the committee suggesting that he have the power to appoint a Justice Minister, at the invitation of the Assembly, if the parties could not agree on the process. A covering letter to MLAs suggested new legislation would be forthcoming if necessary.⁶³

The Sinn Fein Executive agreed on 13 January to hold a special Ard Fheis on 28 January 2007.⁶⁴ 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 2007.⁶⁵

⁵⁶ HL Deb 4 December 2006 c112WA

⁵⁷ "Committee has a month to resolve policing and justice row" 5 December 2006 *Belfast Telegraph*

⁵⁸ "Sinn Fein backs police conference" 19 December 2006 *BBC News*

⁵⁹ "A moment of truth for Sinn Fein, says Paisley" 2 January 2007 *Belfast Telegraph*

⁶⁰ "Good faith is key to breaking the current peace process impasse" 8 January 2007 *Irish Times*

⁶¹ "Blair hails Sinn Fein leaders in last drive to secure peace deal" 8 January 2007 *Daily Telegraph*

⁶² "Parties blasted for secrecy on key committee" 15 December 2006 *Belfast Telegraph*

⁶³ "Assembly to meet Hain over Justice Minister" January 5 2007 *Belfast Telegraph*

⁶⁴ "Date for Sinn Fein's key meeting" 13 January 2007 *BBC News*

⁶⁵ "NI police colluded with killers" 22 January 2007 *BBC News*

There were press indications that Peter Hain would reduce the number of ministries in Northern Ireland from 11 to 6, as part of the Review of Public Administration, if devolution were not restored by March 2007.⁶⁶

E. Justice and Security (Northern Ireland) Bill 2006-07

The *Justice and Security (Northern Ireland) Bill* was presented on the 27 November 2006 and was debated on second reading in the House of Commons on Wednesday 13 December 2006.⁶⁷ Further details are available in Library Research Paper 06/63 at <http://www.parliament.uk/commons/lib/research/rp2006/rp06-063.pdf>

A key part of the normalisation programme in Northern Ireland, following the paramilitary ceasefires and subsequent improvements in the security situation, is the expiry by July 2007 of counter-terrorist legislation specific to Northern Ireland, currently set out in Part 7 of the *Terrorism Act 2000*. Part 7 includes provisions currently enabling non-jury “Diplock courts” to try “scheduled offences”.

The *Justice and Security (Northern Ireland) Bill* contains measures designed to re-introduce a presumption in favour of jury trial for offences triable on indictment, subject to a fall-back arrangement for a small number of exceptional cases for which the Director of Public Prosecutions will be able to issue a certificate stating that a trial is to take place without a jury. Amongst other things the Bill also seeks to reform the jury system in Northern Ireland, extend the powers of the Northern Ireland Human Rights Commission, provide additional statutory powers for the police and armed forces and create a permanent regulatory framework for the private security industry in Northern Ireland.

F. Northern Ireland Decommissioning Order 2007

On January 24 2006 the House of Lords debated the Northern Ireland Arms Decommissioning Act 1997 (Amnesty Period) Order 2007, in Grand Committee.⁶⁸ The Minister, Lord Rooker, introduced the order as follows:

As I said, this order is a renewal order—an annual order, which appoints 20 February 2008 as the date before which the amnesty period identified in a non-statutory decommissioning scheme must end. The amnesty period is the time during which firearms, ammunition and explosives can be decommissioned in accordance with the scheme. The amnesty provides immunity from prosecution for the offences set out in the schedule to the 1997 Act, offences that might be committed during the decommissioning process. Most such offences relate to the possession of weapons but others may stem from a person’s participation in decommissioning, not necessarily centred on the weapons involved but on the behaviour that may accompany such participation, such as withholding information or making arrangements with the terrorists.

⁶⁶ “Blueprint to slash Ulster departments is revealed! 10 January 2007 *Belfast Telegraph*

⁶⁷ HC Deb 13 December 2006 c893-978

⁶⁸ HL Deb 24 January 2007 c373-383GC

<http://www.opsi.gov.uk/si/si2007/draft/20075463.htm>

Section 2 of the 1997 Act, as amended by the Northern Ireland Arms Decommissioning (Amendment) Act 2002 and the Northern Ireland (Miscellaneous Provisions) Act 2006, requires that a scheme must identify the amnesty period, and that it must end before 27 February 2010 unless the Secretary of State, by order, appoints a later day. The order currently in force appoints 23 February as the day before which the amnesty period must end. The purpose of the order before the House is to extend that period for a further year.

G. Dissolution of the Assembly January 2007

On 28 January 2007 the Sinn Fein Ard Fheis backed the proposals for policing in Northern Ireland. More than 80% of those who voted backed the party leadership's motion. The implementation of the policing policy will be in the hands of the party's Ard Chomhairle and will depend on the restoration of the power-sharing devolution, according to the party's spokesperson.⁶⁹

The decision was welcomed by the Prime Minister, Tony Blair and the Taoiseach Bertie Ahern who called it a "landmark". However, the DUP MP Nigel Dodds expressed concern about the short period of time allowed to SF to prove its support for the police before the 27 March deadline.⁷⁰

If they are going to stick to this policy then there will certainly be no delivery before 26 March and therefore there can't be the time for the delivery or testing.

Therefore I think there are very, very serious problems – let Sinn Fein get on with doing what other parties have already done.

The Independent Monitoring Commission published its thirteenth report on 30 January 2007⁷¹. The report was produced following a request made by the British and Irish Governments as a consequence of the *St. Andrews Agreement* of October 2006 and covers the period 1 September 2006 to 30 November 2006.

In a statement following the publication of the report the Secretary of State for Northern Ireland, Peter Hain said:⁷²

Northern Ireland has come a very long way over the past 18 months when the IRA leadership said that the war was over. That commitment to peace was reinforced when it decommissioned its arsenal of weapons.

Since then the IMC has published a series of reports and has give its assessment which chart the process of peace being followed by the Republican leadership and records the seismic shift which has occurred.

Only a few days after the Sinn Fein Ard Fheis gave its support to policing and the criminal justice system – a decision which the IMC has itself described as a 'very

⁶⁹ "Sinn Fein endorses policing" 29 January 2007, *Belfast Telegraph*

⁷⁰ "PMs welcome Sinn Fein police move" 29 January 2007, *BBC News Online*

⁷¹ <http://www.independentmonitoringcommission.org/documents/uploads/Thirteenth%20Report.pdf>

⁷² <http://www.nio.gov.uk/media-detail.htm?newsID=14049>

major development' – it is important for everyone to remember just how far we have come in such a short space of time.

Today's report is further proof – if proof is needed – that Northern Ireland is a much different place to what it was only 18 months ago.

This report removes the final, major impediment to the restoration of stable and lasting devolution in Northern Ireland.

The DUP deputy leader, Peter Robinson, also welcomed the reports findings but expressed some concerns regarding outstanding issues of IRA members' involvement in criminal activity⁷³.

Tony Blair confirmed the date of 7 March 2007 for Northern Ireland Assembly election after a meeting with Bertie Ahern on 30 January. Mr Blair said that there was a "tremendous yearning now for this process to reach its proper completion". Following Sinn Fein's endorsement of policing in Northern Ireland and the findings of the 13th report of the Independent Monitoring Commission the Prime Minister said in a statement:

Our purpose now is to ensure that Northern Ireland can build on all of these positive developments through the restoration of shared, accountable government committed to serving all of the people.⁷⁴

The Assembly was dissolved on 30 January 2007. Elections will be held on 7 March 2007

⁷³ "IRA dismantling its structure", 30 January 2007, *BBC News Online*

⁷⁴ "March assembly election confirmed" 30 January 2007, *BBC News Online*