



## **IRISH LANGUAGE LEGISLATION FOR NORTHERN IRELAND**

**A Consultation by the Department of Culture, Arts and  
Leisure, Northern Ireland**

**13<sup>th</sup> March 2007**

For further copies of this consultation document, an Irish language version, or to request other formats, please go to DCAL's website [www.dcalni.gov.uk](http://www.dcalni.gov.uk), or contact:

Niall McRory  
Irish Language Bill Team  
Department of Culture, Arts & Leisure  
3<sup>rd</sup> Floor, Interpoint  
20-24 York Street  
Belfast  
BT15 1AQ

Tel: 028 90254275  
Fax: 028 90258942  
Email: [Niall.McRory@dcalni.gov.uk](mailto:Niall.McRory@dcalni.gov.uk)

Please send all responses to this consultation document by 5.00pm Tuesday 5<sup>th</sup> June 2007 to:

Margaret O'Keeffe  
Irish Language Bill Team  
Department of Culture, Arts & Leisure  
3<sup>rd</sup> Floor, Interpoint  
20-24 York Street  
Belfast  
BT15 1AQ

Email: [Margaret.OKeeffe@dcalni.gov.uk](mailto:Margaret.OKeeffe@dcalni.gov.uk)

Please note that all responses will be published on DCAL's website ([www.dcalni.gov.uk](http://www.dcalni.gov.uk)), and your name (if a personal response) or your organisation's name will be disclosed unless you specifically request otherwise.

Please note that information supplied during the consultation may be disclosed in response to a request under the Freedom of Information Act. If you consider that any such information is either confidential or commercially sensitive, you should identify the information to the Department and specify any reasons for its sensitivity. The Department will consult you about the information before making a decision on any request received.

## **Irish Language Legislation for Northern Ireland**

### **Foreword**

The consultation on Irish language legislation which ended on 2 March 2007 attracted a significant response. In all 668 substantive responses were received. Of these the vast majority were in favour of legislation. My Department also received 1376 postcards and a petition with 2,500 signatures supporting legislation. In addition POBAL (the Irish language umbrella group) placed an advertisement in the press with 800 signatures supporting legislation. A small minority of the responses were strongly against the proposal for legislation.

I and my Ministerial colleagues are grateful to those who put forward their views and we appreciate the time and effort taken to engage with the issues. Government supports the efforts of those who enjoy, value and use the Irish language and who wish to see its cultural richness benefit all in Northern Ireland. Government also recognises the validity of the aspiration of those who wish to use Irish that it should be treated on an equal basis with English in the provision of public services in Northern Ireland. At the same time however, we recognise that there is a pronounced divergence of views within Northern Ireland with respect to the role of the Irish language in public life.

During the course of the consultation process the view was expressed that it would have been more meaningful if the discussion was based on actual proposals for clauses to be included in a draft Bill. The Government sees merit in that suggestion and therefore we are publishing an additional consultation paper seeking views on indicative draft clauses that could be included in an Irish Language Bill for Northern Ireland. These clauses represent a middle ground approach. As such we appreciate they will not meet the expectations of those

who wish to see the strongest possible legislative provision promoting and protecting the Irish language. Likewise those who wish to see no legislation in this area are unlikely to view them in a positive light. The merit of such a middle ground approach is that it has the potential to provide a workable and practical legislative base on which to build consensus. It should be emphasised that these proposals do not pose a threat to those who do not wish to avail of public services in Irish. But they do support the aspirations of those people in Northern Ireland who have a genuine appreciation of the language and who wish to use it in their everyday lives, reflecting the rich cultural tapestry which we can all share.

The consultation launched today will last for 12 weeks. In the event that the Northern Ireland Assembly is fully functioning from the 26<sup>th</sup> March 2007 it will be a matter for the Assembly to take forward any legislation and to consider the associated costs and implementation strategy. Should the Assembly not be fully functioning from that date, this matter will be taken forward at Westminster with the objective of legislating in accordance with a commitment given in the St Andrews Agreement of October 2006.

**Maria Eagle MP**  
**Parliamentary Under Secretary**

**13<sup>th</sup> March 2007**

## **CONSULTATION ON IRISH LANGUAGE LEGISLATION FOR NORTHERN IRELAND WITH INDICATIVE DRAFT CLAUSES**

### Introduction

The St. Andrews Agreement included a provision to introduce an Irish Language Bill reflecting on the experience of Wales and Ireland and to work with the incoming Executive to enhance and protect the development of the Irish language. A consultation paper was published by the Department of Culture, Arts and Leisure (DCAL) on 13 December 2006. This set out a number of approaches which Irish language legislation could take. In broad terms, these were:

- a rights-based approach, which would give rights to individuals to use Irish in certain circumstances when dealing with public bodies, for example, a right to correspond in Irish and fill in certain official forms in Irish;
- a duty-based approach which would place duties on public bodies to make specified public services available in Irish, for example a duty to provide certain documents in Irish;
- a language scheme approach which would require public bodies to set out in a scheme the extent to which their services are available in Irish; and
- an approach based on some combination of the above.

### Responses to the consultation

The consultation period ended on 2 March 2007 (all responses will be published on DCAL's website shortly; any requests for confidentiality have been adhered to). 668 substantive responses were received. The Department also received 1376 postcards and a petition with 2,500 signatures supporting legislation. In addition POBAL (the Irish language umbrella group) placed an advertisement in the press with 800 signatures supporting legislation. This reflects a significant level of interest in the issues raised in the paper. Of those who responded, the overwhelming majority (93%) favoured the adoption of Irish language legislation; while a small minority of respondents strongly disagreed with the proposal. Those in favour preferred a rights-based approach. Those against (7%) cited cost issues and the perception that legislation would be politically divisive.

The consultation responses reflect a pronounced divergence of views among different sections of the community in Northern Ireland on the adoption of Irish language legislation. This suggests a need to build consensus around the form of any future legislation. The purpose of this further consultation exercise is to seek views on an approach which lies in between the two primary positions demonstrated in the responses to the first consultation.

The accompanying indicative clauses for future legislation are based on a middle ground approach which Government hopes may be practical and capable, over time, of gaining acceptance across both main sections of the community. The approach draws heavily on the experience of Wales and the Republic of Ireland. The effect of the draft clauses, if they were to be enacted in legislation, would be to enhance and promote the status of the Irish language in the provision of public services in Northern Ireland.

#### The proposed approach

The approach set out in the attached draft clauses is based mainly on a language scheme model. Many of the responses received suggested that the lack of political consensus around Irish language legislation was an argument for adopting a strong rights-based model. However, Government believes that flexible mechanisms for promoting the language such as language schemes, may be more effective in the Northern Ireland context for building consensus over a period of time. In Wales, Scotland and the Republic of Ireland, language schemes have been adopted as central main mechanism within the language legislation of each jurisdiction.

It is also the case that this would be the first piece of legislation for Northern Ireland relating to the Irish language. As such it would be breaking new ground. In time, however, the legislation could be reviewed and progressively developed to reflect the practical experience of its operation and any change in the level of consensus.

In this context the experience of other countries is also helpful. It shows that a progressive approach to minority language legislation can enable the communities involved to develop increased understanding of the cultural, educational and social benefits that may be gained through the promotion of an indigenous language. A progressive approach can also aid capacity-building to ensure that demand for services in Irish can be met. For example, in Wales there were a number of pieces of legislation enacted over a period of many years leading up to the introduction of the Welsh Language Act 1993. Commentators have suggested that this development of legislation over time helped build within Wales (where 80% of people do not speak Welsh) support for, and an understanding of the benefits of promoting and protecting the Welsh language.

In the attached indicative clauses it is proposed to create a duty on public authorities to prepare a language scheme specifying the measures which they will take on the use of the Irish language in the provision of their services to the public. It is also proposed to establish a new oversight body, an Irish Language Commissioner, who will have the function of approving and overseeing language schemes. In addition, it is proposed that a person will be able to use Irish in legal proceedings in courts and tribunals sitting in Northern Ireland subject to the provision of notice and the interests of justice. Finally a draft provision has been included enabling certain statutory forms to be made available in Irish.

## OVERVIEW OF THE INDICATIVE CLAUSES

The draft clauses cover four main areas: first, the Irish Language Commissioner and his/her functions; second, the duty on public authorities to prepare Irish language schemes; third, the use of Irish in courts and tribunals; and fourth, forms in the Irish language.

### 1. The Irish Language Commissioner

**Clause 1** establishes an officer to be known as “the Irish Language Commissioner” and provides that the Commissioner will be appointed by the Secretary of State.

**Clause 2** sets out the functions of the Commissioner. The Commissioner is required to exercise his/her functions “with the aim of enhancing and protecting the use of the Irish language” in connection with the provision of services by public authorities in Northern Ireland.

In exercising the functions relating to language schemes, the Commissioner must have regard to “the extent to which Irish is used by persons in relation to whom the functions of the public authority are exercisable”.

In addition, the Commissioner will have an advisory role with respect to public authorities and members of the public on the Act’s provisions.

### 2. Irish Language Schemes

**Clause 3** provides a duty on certain public authorities to prepare a scheme. This must be submitted to the Commissioner within 6 months beginning with the date of the notice sent by the Commissioner. The definition of public authority includes all Northern Ireland departments,

most Northern Ireland-based statutory bodies, and a small number of UK-wide public authorities, for example, the NIO.

**Clause 4** relates to guidelines published by the Commissioner. The Commissioner must consult on a draft of the guidelines before sending them to the Secretary of State for approval.

**Clause 5** deals with preparation of language schemes. A scheme must include information on the extent to which an individual can communicate with the public authority in Irish and on the extent to which documents are available in Irish. It must also include a timetable for giving effect to the measures set out in the scheme and must show how it will publicise the scheme. A public authority must have regard to the guidelines, and must consult on a draft scheme.

**Clause 6** relates to approval of schemes or imposition of a scheme when it has not been approved. Where a scheme has not been submitted to the Commissioner within the 6-month period specified or the scheme has not been approved, the Commissioner (or in the latter case, the public authority) may refer the matter to the Secretary of State. Where a scheme is not submitted, the Secretary of State may give the public authority further time to submit a scheme. Where no agreement has been reached on a scheme, the Secretary of State may request the Commissioner and the public authority to try and reach agreement before a specified date.

If, in either case, the matter remains unresolved, the Secretary of State may decide on the terms of the scheme. The role of the Secretary of State in imposing a scheme will not apply to any Crown bodies caught by the legislation (see clause 10).

**Clause 7** relates to revision of schemes. After issuing revised guidelines, the Commissioner may require public authorities to revise their scheme. The procedures contained in clauses 5 and 6 also to revised schemes.

**Clause 8** provides for amendment of schemes. After a scheme has been approved, either the public authority or the Commissioner may propose amendments to it. If the amendments are not agreed, then either party may refer the matter to the Secretary of State. The Secretary of State may allow further time to try and reach agreement. If that is not possible, he/she may decide that no amendments need be made or he/she may decide on the amendments. As with previous provisions, this referral procedure does not apply to Crown bodies.

**Clause 9** relates to compliance with schemes. The Commissioner may investigate whether a public authority has complied with its scheme either on a complaint made by an individual or of its own volition. The Commissioner may publish a report of the investigation including recommendations to remedy any failures to carry out a scheme. If those recommendations are not acted upon, the Commissioner may refer the matter to the Secretary of State who may issue directions to the public authority. The referral procedure to the Secretary of State does not apply to a Crown authority.

**Clause 10** relates to Crown authorities. If a scheme is not submitted by a Crown authority or a scheme is submitted but not approved, the Commissioner shall request the body to submit a scheme / a revised scheme within a further 3-month time period. If the Crown authority does not comply with this request, it must send to the Commissioner a statement of its reasons for not doing so.

Where a scheme has been approved, the Commissioner may propose amendments. If these are not agreed, the Crown authority must send a statement of its reasons for not agreeing the amendments.

Where an investigation has been carried out to ascertain whether a Crown authority is carrying out its scheme and recommendations have been made by the Commissioner which has not been acted on, the Commissioner may require the Crown authority to provide it with a statement of its reasons for not doing so.

The Commissioner may lay before Parliament and the Assembly a report of any investigation relating to a Crown authority.

### 3. The use of Irish in courts and tribunals

**Clause 11** provides that any person may use Irish in court proceedings. This is subject to an exemption in the interests of justice and is also subject to a requirement to provide notice. A duty is placed on the court to provide the necessary interpretation. The Lord Chancellor, after consulting the Lord Chief Justice, may make regulations specifying which court documents may be used in Irish. Provision is also made to prescribe an Irish language version of oaths and affirmations. There is provision in relation to the payment of interpreters out of court funds.

**Clause 12** provides for the use of Irish in certain tribunal proceedings. It largely follows the format of the clause on court proceedings. It is subject to an exemption in the interests of justice and a notice requirement. The tribunals to be included are the main tribunals sitting in Northern Ireland, for example, an industrial tribunal, the Fair Employment Tribunal, and social security tribunals.

4. Irish language forms

**Clause 13** makes provision to allow certain forms to be available in Irish.

# Irish Language Legislation For Northern Ireland

## INDICATIVE CLAUSES

### CONTENTS

#### *The Irish Language Commissioner*

1. The Irish Language Commissioner
2. Functions of the Commissioner

#### *Irish Language Schemes*

3. Duty of certain public authorities to prepare schemes
4. Guidelines
5. Preparation of scheme
6. Approval or imposition of scheme
7. Revision of schemes
8. Amendment of schemes
9. Compliance with schemes
10. Crown authorities

#### *Miscellaneous*

11. Use of Irish language in court proceedings
12. Use of Irish language in tribunal proceedings
13. Powers to prescribe Irish language forms

#### *Supplementary*

14. Commencement
15. Interpretation
16. Orders and regulations
17. Extent
18. Short title

### SCHEDULES:

- |            |                                 |
|------------|---------------------------------|
| Schedule 1 | The Irish Language Commissioner |
| Schedule 2 | Public authorities              |

## *The Irish Language Commissioner*

### **The Irish Language Commissioner**

1.—(1) There shall be an officer known as the Irish Language Commissioner (referred to in this Act as “the Commissioner”).

(2) The Commissioner shall be appointed by the Secretary of State.

(3) Schedule 1 has effect in relation to the Commissioner.

### **Functions of the Commissioner**

2.—(1) The Commissioner shall exercise the functions conferred or imposed by this Act with the aim of enhancing and protecting the use of the Irish language in connection with the provision of services to the public by public authorities in Northern Ireland.

(2) In exercising their respective functions under sections 3 to 10 in relation to any public authority the Commissioner and the Secretary of State shall take account of the extent to which the Irish language is used by persons in relation to whom the functions of the public authority are exercisable.

(3) The Commissioner may (on request) provide advice to any person or body in relation to any matter connected with the operation of this Act.

(4) The Commissioner shall—

(a) keep the operation of this Act under review;

(b) make reports to the Secretary of State on the adequacy and effectiveness of this Act containing any recommendations as to amendments to this Act which in the opinion of the Commissioner are necessary or desirable.

(5) A report under subsection (4) shall be made—

(a) before the end of the period of three years beginning with the commencement of this section; and

(b) at such other times as the Commissioner thinks fit, not being earlier than three years after the making of the last previous report.

## *Irish Language Schemes*

### **Duty of certain public authorities to prepare schemes**

3.—(1) Every public authority—

(a) to which a notice is given under subsection (2), and

(b) which provides services to the public in Northern Ireland,

shall prepare a scheme specifying the measures which it proposes to take as to the use of the Irish language in connection with the provision of those services, or of such of them as are specified in the notice.

(2) The Commissioner may give a notice to any public authority requiring the authority to prepare such a scheme and to submit the scheme to the Commissioner before the end of the period of 6 months beginning with the date of the notice.

(3) Different notices may be given to a public authority in respect of different services.

(4) The Commissioner shall give a copy of the current guidelines issued under section 4 to any public authority to which the Commissioner gives a notice under subsection (2).

(5) In this Act “public authority” means—

- (a) a Northern Ireland department;
- (b) any body (other than the Office of the Commissioner) listed in Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7); and
- (c) any body or person listed in Schedule 2.

(6) The Secretary of State may by order amend Schedule 2.

### **Guidelines**

**4.—**(1) The Commissioner shall issue guidelines as to the form and content of schemes.

(2) Guidelines shall not be issued by the Commissioner unless a draft of them has been approved by the Secretary of State.

(3) The Commissioner shall arrange for any guidelines issued under this section to be published in such manner as the Commissioner thinks fit.

(4) As soon as reasonably practicable after the coming into operation of this section, the Commissioner shall prepare a draft of any guidelines that the Commissioner proposes to issue under this section and shall send copies of the draft to—

- (a) such persons likely to be required to prepare schemes under this Act, and
- (b) such organisations representative of members of the public who may be affected by such schemes,

as the Commissioner considers appropriate.

(5) After considering any representations made about the draft guidelines and making any amendments that the Commissioner considers appropriate, the Commissioner shall send a report on the representations and a copy of the draft guidelines to the Secretary of State.

(6) After considering the Commissioner’s report and the draft guidelines, the Secretary of State may approve the draft, either unamended or with such amendments as the Secretary of State thinks fit.

(7) The Commissioner shall at such intervals as the Commissioner thinks fit revise the guidelines issued under this section; and this section shall apply in relation to revised guidelines as it applies in relation to the guidelines first issued.

### **Preparation of scheme**

**5.—**(1) A public authority to which the Commissioner has given a notice under subsection (2) of section 3 shall submit a scheme to the Commissioner before the date specified in that subsection.

(2) A scheme prepared by a public authority shall in particular include provision specifying—

- (a) the extent to which communications between a member of the public and the authority may be in Irish;
- (b) the extent to which documents made available to the public by the authority are to be made available in Irish;
- (c) a time-table for giving effect to the measures proposed in the scheme;
- (d) the ways in which the public authority will ensure that the scheme is publicised.

(3) In preparing a scheme a public authority shall have regard to the guidelines sent to it under section 3(4).

(4) A public authority preparing a scheme for submission to the Commissioner shall—

(a) carry out such consultations as may be appropriate in order to ascertain views representative of both Irish speaking and other members of the public who may be affected by the scheme;

(b) comply with any directions given to it by the Commissioner in connection with the carrying of such consultations.

### **Approval or imposition of scheme**

6.—(1) If a scheme appears to the Commissioner to be satisfactory, either as it is submitted to the Commissioner or with modifications agreed between the Commissioner and the public authority submitting it, the Commissioner shall approve the scheme.

(2) If no scheme is submitted to the Commissioner before the date specified in section 3(2), or such later date as the Commissioner may allow, the Commissioner may refer the matter to the Secretary of State.

(3) If a scheme has been submitted before that date (or that later date) but has not been approved by the Commissioner, either the Commissioner or the public authority submitting the scheme may refer the matter to the Secretary of State.

(4) On a reference under subsection (2), the Secretary of State may request the public authority concerned to submit a scheme to the Commissioner before a date specified by the Secretary of State; and if the Secretary of State does so, this Act shall apply as if that date were substituted for the date specified in section 3(2).

(5) On a reference under subsection (3), the Secretary of State may request the Commissioner and the public authority concerned to try to reach agreement on the terms of a scheme before a date specified by the Secretary of State; and if the Secretary of State does so the Secretary of State shall not exercise the powers under subsection (6) before that date.

(6) On a reference under subsection (3), the Secretary of State may in any case decide upon the terms of a scheme; and if the Secretary of State does so—

(a) the Secretary of State shall send a copy of the scheme to the Commissioner and to the public authority concerned, and

(b) this Act shall then apply as if the scheme had been submitted by the authority and approved by the Commissioner.

(7) Subsections (2) to (6) do not apply to a Crown authority (in relation to which provision is made in section 10).

### **Revision of schemes**

7.—(1) At any time after the Commissioner has issued revised guidelines under section 4, the Commissioner may by notice in writing to any public authority whose scheme it has approved require that authority to review the scheme and submit to the Commissioner a statement of its conclusions.

(2) After receiving a statement under subsection (1), the Commissioner may by notice in writing require the public authority to submit a revised scheme to the Commissioner before such date as may be specified in the notice.

(3) Sections 5 and 6 shall (with the necessary modifications) apply where a notice is given under subsection (2) as they apply where a notice is given under section 3(2).

### **Amendment of schemes**

**8.**—(1) Where a scheme prepared by a public authority has been approved by the Commissioner, either the public authority or the Commissioner may at any time by notice in writing to the other propose amendments to the scheme.

(2) If the amendments proposed are agreed between the public authority and the Commissioner, either as proposed or with modifications, the scheme shall thereafter have effect subject to the amendments.

(3) If the amendments are not agreed, either the public authority or the Commissioner may refer the matter to the Secretary of State.

(4) On a reference under subsection (3), the Secretary of State may request the Commissioner and the public authority concerned to try to reach agreement on the amendments before a date specified by the Secretary of State; and if the Secretary of State does so the Secretary of State shall not exercise the powers under subsection (5) before that date.

(5) On a reference under subsection (3), the Secretary of State may—

- (a) determine that no amendments should be made, or
- (b) decide upon the amendments to be made to the scheme (which may be the amendments proposed, either with or without modifications, or other amendments).

(6) Where in accordance with subsection (5) the Secretary of State decides upon the amendments to be made to a scheme—

- (a) the Secretary of State shall send a copy of the amendments to the Commissioner and to the public authority concerned, and
- (b) the scheme shall thereafter have effect subject to the amendments.

(7) Subsections (3) to (6) do not apply to a Crown authority (in relation to which provision is made in section 10).

### **Compliance with schemes**

**9.**—(1) Where—

- (a) a written complaint is made to the Commissioner by a person who claims to have been directly affected by a failure of a public authority to carry out a scheme approved by the Commissioner,
- (b) the complaint is made within the period of 12 months beginning with the day on which the complainant first knew of the matters alleged in the complaint, and
- (c) the Commissioner is satisfied that the complainant has brought the matter complained of to the notice of the public authority concerned and that that authority has had a reasonable opportunity to consider it and to respond,

the Commissioner shall either investigate that complaint under this section or send to the complainant a statement of the reasons for not doing so.

(2) Where it appears to the Commissioner (whether on a complaint made to it under subsection (1) or otherwise) that a public authority may have failed to carry out a scheme approved by the Commissioner, the Commissioner may conduct an investigation in order to ascertain whether there has been a failure.

(3) Subject to subsection (4), the procedure for conducting an investigation under this section shall be such as the Commissioner considers appropriate in the circumstances of the case, and in particular an investigation may be conducted in private.

(4) Where the Commissioner proposes to carry out an investigation under this section, the Commissioner shall—

- (a) send notice of that fact to—
  - (i) the public authority concerned;
  - (ii) where the investigation is conducted on a complaint made under subsection (1), to the complainant; and
  - (iii) the Secretary of State, and
- (b) afford—
  - (i) the public authority concerned; and
  - (ii) any other person who appears, or in a case where a complaint has been made to the Commissioner is alleged, to have been responsible for the matter complained of,  
an opportunity to comment on the matter and, if a complaint in relation to the matter has been made under subsection (1), on any allegations contained in the complaint.

(5) The Commissioner may, if the Commissioner considers it appropriate to do so, pay to any person who attends or provides information for the purposes of an investigation—

- (a) sums in respect of the expenses properly incurred by that person, and
- (b) allowances by way of compensation for the loss of that person's time,

in accordance with such scales and subject to such conditions as may be determined by the Department with the approval of the Department of Finance and Personnel.

(6) Where the Commissioner undertakes an investigation under this section, the Commissioner shall send a report of the results of the investigation to—

- (a) the public authority concerned,
- (b) the Secretary of State, and
- (c) where the investigation is conducted on a complaint made under subsection (1), to the complainant (whether or not the complaint is withdrawn before the investigation is completed).

(7) Where the Commissioner considers that it would be appropriate for a report of the results of an investigation to be published, either in the form of the report made under subsection (6) or in some other form, the Commissioner may arrange for publication in such manner as the Commissioner thinks fit.

(8) Where on completing an investigation the Commissioner is satisfied that the public authority concerned has failed to carry out the scheme, the Commissioner may include in the report under subsection (6) recommendations as to action to be taken by the public authority in order to remedy the failure or to avoid future failures.

(9) If at any time it appears to the Commissioner that a public authority has failed to take any action recommended in a report under this section, the Commissioner may refer the matter to the Secretary of State.

(10) If on a reference under this section the Secretary of State is satisfied, after considering any representations made by the Commissioner and by the public authority concerned, that the authority has failed to take any action recommended in the report, the Secretary of State may give such directions to the public authority as the Secretary of State considers appropriate.

(11) Any directions given under subsection (10) shall be enforceable, on an application made by the Secretary of State, by an order of mandamus.

(12) Subsections (4)(a)(iii), (6)(b) and (9) to (11) do not apply to a Crown authority (in relation to which provision is made in section 10).

### **Crown authorities**

**10.**—(1) In this Act “Crown authority” means a public authority acting as the servant or agent of the Crown.

(2) If a scheme submitted by a Crown authority is not approved by the Commissioner under section 6(1), the Commissioner shall request the Crown authority to submit a revised scheme before the end of the period of 3 months beginning with the date of the request.

(3) Where—

(a) a request is made under subsection (2) and the Crown authority does not submit a revised scheme to the Commissioner before the end of the period mentioned in that subsection, or

(b) a Crown authority does not submit a scheme to the Commissioner before the date specified in section 3(2), or such later date as the Commissioner may allow,

the Crown authority shall send to the Commissioner a written statement of the reasons for not doing so.

(4) Where—

(a) the Commissioner proposes amendments to a scheme of a Crown authority under section 8(1); and

(b) the amendments proposed are not agreed between the Crown authority and the Commissioner (either as proposed or with modifications),

the Crown authority shall send to the Commissioner a written statement of its reasons for not agreeing.

(5) If at any time it appears to the Commissioner that a Crown authority has failed to take any action recommended in a report under section 9, the Commissioner may by notice to the authority require it to provide the Commissioner with a written statement of its reasons for that failure.

(6) The Commissioner may lay before Parliament and the Assembly a report of any investigation under section 9 relating to a Crown authority.

(7) For the purposes of this Act the Northern Ireland Assembly Commission shall be treated as acting as the servant or agent of the Crown.

### *Miscellaneous*

### **Use of Irish language in court proceedings**

**11.**—(1) In any court proceedings the Irish language may be spoken by any party, witness or other person who desires to use it.

(2) But subsection (1)—

(a) applies only if such prior notice as may be required by rules of court has been given; and

(b) does not apply in any proceedings if, or to the extent that, the court in the interests of justice so directs.

(3) The Lord Chancellor may, after consulting the Lord Chief Justice of Northern Ireland, by regulations make provision as to the use in court proceedings of documents in the Irish language.

(4) The Lord Chancellor may, after consulting the Lord Chief Justice of Northern Ireland, by regulations prescribe a translation in the Irish language of any form for the time being prescribed by law as the form of any oath or affirmation to be administered and taken or made by any person in any court in Northern Ireland.

(5) Subject to subsection (7), where Irish is spoken in any court proceedings in accordance with this section, any necessary provision for interpretation shall be made by the court.

(6) Interpreters employed for the purposes of subsection (5) shall be paid such remuneration in respect of their services as the Lord Chancellor may determine.

(7) An oath or affirmation administered and taken or made in any court in the translation prescribed by regulations under subsection (4) shall, without interpretation, be of the same effect as if it had been administered and taken or made in the English language.

(8) The Lord Chief Justice of Northern Ireland may nominate any of the following to exercise his functions under subsections (3) and (4)—

(a) the holder of one of the offices listed in Schedule 1 to the Justice (Northern Ireland) Act 2002 (c.26);

(b) a Lord Justice of Appeal (as defined in section 88 of that Act).

(9) Nothing in section 1 of the Administration of Justice (Language) Act (Ireland) 1737 (c.6) applies in relation to the use of Irish in court proceedings in accordance with this section or regulations thereunder.

(10) In this section “court proceedings” means civil or criminal proceedings in or before any court in Northern Ireland.

### **Use of Irish language in tribunal proceedings**

**12.—**(1) In any proceedings before a relevant tribunal the Irish language may be spoken by any party, witness or other person who desires to use it.

(2) But subsection (1)—

(a) applies only if such prior notice as may be required by procedural rules has been given; and

(b) does not apply in any proceedings if, or to the extent that, the tribunal in the interests of justice so directs.

(3) Any power to make procedural rules in relation to any relevant tribunal includes power to make provision as to the use in proceedings before the tribunal of documents in the Irish language.

(4) Subject to subsection (6), where Irish is spoken in any proceedings before a relevant tribunal in accordance with this section, any necessary provision for interpretation shall be made by the tribunal.

(5) Interpreters employed for the purposes of subsection (4) shall be paid such remuneration in respect of their services as may be determined by or in accordance with the procedural rules of the tribunal.

(6) An oath or affirmation administered and taken or made before any relevant tribunal in the translation prescribed by regulations under section 11(4) shall, without interpretation, be of the same effect as if it had been administered and taken or made in the English language.

(7) In this section—

“procedural rules”, in relation to a relevant tribunal, means provision (whether made by rules or regulations or any other instrument) regulating the practice and procedure to be followed in the tribunal;

“relevant tribunal “ means—

- (a) an appeal tribunal established under Chapter I of Part II of the Social Security (Northern Ireland) Order 1998 (NI 10);
- (b) the Care Tribunal;
- (c) the Fair Employment Tribunal for Northern Ireland;
- (d) an industrial tribunal;
- (e) the Lands Tribunal for Northern Ireland;
- (f) the Mental Health Review Tribunal for Northern Ireland;
- (g) the Planning Appeals Commission;
- (h) the Special Educational Needs and Disability Tribunal for Northern Ireland;
- (i) the Water Appeals Commission for Northern Ireland.

### **Powers to prescribe Irish language forms**

**13.**—(1) This section applies where relevant legislation confers power to specify the form of any document which is to be or may be used for an official or public purpose or for any other purpose where the consequences in law of any act depend on the form used.

(2) The power to specify the form of the document shall include power to prescribe—

- (a) separate forms of the document in Irish and in English, and
- (b) a form partly in Irish and partly in English,

for use in such circumstances and subject to such conditions as may be prescribed by the instrument by which the power is exercised.

(3) Where the powers conferred by this section are exercised in relation to the form of a document, a reference in any statutory provision to the form shall, so far as may be necessary, be construed as (or as including) a reference to the form prescribed by virtue of this section.

(4) Anything done in Irish by virtue of this section shall have the same effect as if done in English.

(5) Any statutory provision authorising—

- (a) the use of a document to the same effect as a document of which another version is prescribed by virtue of this section, or
- (b) the adaptation of a document of which another version is so prescribed,

shall apply in relation to both versions.

(6) In this section—

(a) “relevant legislation” means—

- (i) an Act of Parliament (whether passed before or after this Act);
- (ii) any Northern Ireland legislation (whether passed or made before or after this Act);

(b) “statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954 (c.33).

## *Supplementary*

### **Commencement**

**14.** The preceding provisions of this Act come into force on such day as the Secretary of State may by order appoint.

### **Interpretation**

**15.—**(1) In this Act—

“the Assembly” means the Northern Ireland Assembly;

“the Commissioner” means the Irish Language Commissioner;

“the Department” means the Department of Culture, Arts and Leisure;

“notice” means notice in writing;

“public authority” has the meaning given by section 3(5);

“scheme” means a scheme under this Act.

(2) Any notice or other document required or authorised to be given or sent to the Commissioner or to a public authority under this Act may be sent by post to the principal office of the Commissioner or of that public authority.

### **Orders and regulations**

**16.—**(1) Any power —

(a) of the Secretary of State to make an order under section 3(6),

(b) of the Lord Chancellor to make regulations under section 11(3) or (4),

is exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979 (S.I 1979/1573 (NI 12)).

(2) An order or regulations under this Act—

(a) may make different provisions for different purposes;

(b) may include supplementary, incidental, saving or transitional provision.

(3) An order made by the Secretary of State under section 3(6) is subject to annulment in pursuance of a resolution of either House of Parliament.

(4) Any regulations made by the Lord Chancellor under section 11(3) or (4) are subject to subject to annulment in pursuance of a resolution of either House of Parliament.

### **Extent**

**17.—**(1) Any amendment by this Act of any enactment has the same extent as the enactment amended.

(2) Subject to that, this Act extends to Northern Ireland only.

## SCHEDULES

### SCHEDULE 1

Article 1

#### THE IRISH LANGUAGE COMMISSIONER

##### *Status*

1.—(1) The person for the time being holding the office of Irish Language Commissioner shall by that name be a corporation sole.

(2) The Commissioner shall not be regarded—

- (a) as the servant or agent of the Crown; or
- (b) as enjoying any status, immunity or privilege of the Crown.

(3) The property held by the Commissioner shall not be regarded as property of, or held on behalf of, the Crown.

##### *General powers*

2.—(1) The Commissioner may do anything, apart from borrowing money, which the Commissioner considers is—

- (a) appropriate for facilitating, or
- (b) incidental or conducive to,

the exercise of the Commissioner's functions.

(2) That includes in particular—

- (a) co-operating with other persons or bodies exercising similar functions (whether in the United Kingdom or elsewhere);
- (b) acquiring, holding and disposing of real or personal property;
- (c) entering into contracts.

##### *Tenure of office*

3.—(1) Subject to the following provisions, a person shall hold and vacate office as the Commissioner in accordance with the terms of appointment.

(2) An appointment as the Commissioner shall be for a term of 4 years.

(3) A person who ceases to be the Commissioner on the expiration of his first term of office shall be eligible for re-appointment, but a person who has been re-appointed by virtue of this sub-paragraph shall not be eligible for appointment or re-appointment as the Commissioner at any time after the end of his second term of office.

(4) A person may at any time resign office as the Commissioner by notice in writing to the Secretary of State.

(5) The Secretary of State may remove a person from office as the Commissioner by notice in writing if satisfied that the person—

- (a) has been convicted of a criminal offence;
- (b) is the subject of a bankruptcy restrictions order (or interim order),
- (c) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of 3 months; or
- (d) is otherwise unable, unfit or unwilling to perform the functions of the office.

SCH. 1

*Remuneration, etc*

4.—(1) The Department may pay to or in respect of the Commissioner—

- (a) such remuneration,
- (b) such allowances, and
- (c) such sums for the provision of a pension,

as the Department may determine.

(2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Department determines that there are special circumstances that make it right for that person to receive compensation, the Department may make to that person a payment of such amount as the Department may determine.

(3) A determination of the Department under this paragraph requires the approval of the Department of Finance and Personnel.

*Officers*

5.—(1) The Commissioner may appoint such number of officers as the Commissioner may determine.

(2) The remuneration and other conditions of service of the officers appointed under this paragraph shall be determined by the Commissioner.

(3) The Commissioner may make such payments towards the provision of such pensions or allowances to or in respect of the officers appointed under this paragraph as the Commissioner may determine.

(4) The reference in sub-paragraph (3) to pensions or allowances to or in respect of the officers appointed under this paragraph includes reference to pensions or allowances by way of compensation to or in respect of any of those officers who suffer loss of employment.

(5) A determination of the Commissioner under this paragraph requires the approval of the Department and the Department of Finance and Personnel.

(6) Employment as an officer of the Commissioner is among the kinds of employment to which a superannuation scheme under Article 3 of the Superannuation (Northern Ireland) Order 1972 (NI 10) can apply and, accordingly, in Schedule 1 to that Order (employments to which Article 3 can apply) the following entry shall be inserted at the appropriate place—

“Employment by the Irish Language Commissioner”.

*Exercise of functions*

6. Any function of the Commissioner may be exercised by any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

*Seal*

7. The application of the seal of the Commissioner shall be authenticated by the signature—

- (a) of the Commissioner; or
- (b) of any officer of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose.

### *Evidence*

8. A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner's seal or to be signed by, or on behalf of, the Commissioner shall be received in evidence and shall, unless the contrary is proved, be taken to be such an instrument.

### *Property*

9.—(1) Any real or personal property vested in the Commissioner shall (unless and until disclaimed or disposed of) vest in the successor in office.

(2) Where there is a vacancy in the office of Commissioner at the time when real or personal property would otherwise have vested, the property shall vest in the successor on appointment.

### *Finance*

10.—(1) The Department may make payments to the Commissioner out of money appropriated for the purpose by Act of the Assembly.

(2) Payments under this paragraph shall be made on such terms and conditions as the Department may determine.

(3) Subject to sub-paragraph (4), the Commissioner shall pay to the Department all sums received in the course of, or in connection with, the carrying out of the Commissioner's functions.

(4) Sub-paragraph (3) shall not apply to such sums, or sums of such description, as the Department may direct.

(5) Any sums received by the Department under sub-paragraph (3) shall be paid into the Consolidated Fund of Northern Ireland.

### *Accounts*

11.—(1) The Commissioner shall—

- (a) keep proper accounts and proper records in relation to the accounts; and
- (b) prepare a statement of accounts in respect of each financial year.

(2) The statement of accounts shall—

- (a) be in such form; and
- (b) contain such information,

as the Department may, with the approval of the Department of Finance and Personnel, direct.

SCH. 1

(3) The Commissioner shall, within such period after the end of each financial year the Department may direct, send copies of the statement of accounts relating to that year to—

- (a) the Department; and
- (b) the Comptroller and Auditor General for Northern Ireland.

(4) The Comptroller and Auditor General for Northern Ireland shall—

- (a) examine, certify and report on every statement of accounts received under sub-paragraph (3); and
- (b) send a copy of the report to the Department.

(5) The Department shall lay a copy of the statement of accounts and of the report thereon before the Assembly.

- (6) In this paragraph and paragraph 12 “financial year” means—
- (a) the period beginning with the day on which the Commissioner is first appointed and ending on the next following 31st March; and
  - (b) any subsequent period of twelve months ending on 31st March.

*Annual report*

Section 3 12.—(1) As soon as practicable after the end of each financial year, the Commissioner shall send to the Department a report on the carrying out of the Commissioner’s functions during that year.

(2) The Department shall lay a copy of the report before the Assembly and send a copy to the Secretary of State.

(3) The Secretary of State shall lay a copy of the report before each House of Parliament.

*Parliamentary disqualification*

13. In Part 3 of Schedule 1 to the House of Commons Disqualification Act 1975 (c.24) (disqualifying offices) there shall be inserted, at the appropriate place—

“The Irish Language Commissioner”.

*Assembly disqualification*

14. In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (c.25) (disqualifying offices) there shall be inserted, at the appropriate place—

“The Irish Language Commissioner”.

*Commissioner for Complaints*

15. In Schedule 2 to the Commissioner for Complaints (Northern Ireland) Order 1996 (NI 7) (bodies subject to investigation) there shall be inserted, at the appropriate place—

“The Office of the Irish Language Commissioner”.

*Freedom of information*

16. In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (c.36) offices and bodies which are public authorities for the purposes of the Act) there shall be inserted, at the appropriate place—

“The Irish Language Commissioner”.

SCHEDULE 2

PUBLIC AUTHORITIES

The following bodies and persons are public authorities by virtue of section 3(5)(c) :

1. An implementation body to which the North/South Co-Operation (Implementation Bodies) (Northern Ireland) Order 1999 (SI 1999/859) applies.
2. The Assembly Ombudsman for Northern Ireland.
3. The Chief Electoral Officer for Northern Ireland.
4. The Northern Ireland Audit Office.
5. The Northern Ireland Authority for Utilities Regulation.

6. The Northern Ireland Assembly Commission.
7. The Northern Ireland Civil Service Commission.
8. The Northern Ireland Commissioner for Complaints.
9. The Northern Ireland Court Service.
10. The Northern Ireland Film and Television Commission.
11. The Northern Ireland Human Rights Commission
12. The Northern Ireland Law Commission.
13. The Northern Ireland Legal Services Commission.
14. The Northern Ireland Office.
15. The Northern Ireland Policing Board
16. The Police Ombudsman for Northern Ireland.
17. The Police Service of Northern Ireland.
18. The Probation Board for Northern Ireland.