EXPLANATORY MEMORANDUM TO

THE NORTHERN IRELAND ACT 2000 (MODIFICATION) ORDER 2007

2007 No. 1163

1. This explanatory memorandum has been prepared by the Northern Ireland Office and is laid before Parliament by Command of Her Majesty.

2. Description

2.1 The Order extends the Government's ability to legislate for Northern Ireland by Order in Council until the end of 14 October 2007.

3. Matters of special interest to the Joint Committee on Statutory Instruments

3.1 None.

4. Legislative Background

4.1 The Order is made under paragraph 1(4) of the Schedule to the Northern Ireland Act 2000 (c. 1) (the 2000 Act). On 15 October 2002 the Northern Ireland Assembly (the Assembly) was suspended and section 1 of the 2000 Act was brought into force by the Northern Ireland Act 2000 (Suspension of Devolved Government) Order 2002 (S.I. 2002/2574). Under the Schedule to the 2000 Act, while the Assembly is suspended, Her Majesty may legislate by Order in Council on any matter on which the Assembly has the competence to legislate. Under paragraph 1(3) of the Schedule that power only lasts for six months and then it can be renewed by the Secretary of State by order under paragraph 1(4) of the Schedule.

4.2 There have been eight previous orders under paragraph 1(4). The first Order (The Northern Ireland Act 2000 (Modification) Order 2003 (S.I. 2003/1155)) provided for the renewal of the power to legislate by Order in Council for a period of six months from 15 April 2003 to the end of 14 October 2003. The second Order (The Northern Ireland Act 2000 (Modification) (No 2) Order 2003 (S.I. 2003/2592)) provided for the renewal of the powers to legislate by Order in Council for the period of six months from 15 October 2003 to the end of 14 April 2004. The third Order (The Northern Ireland Act 2000 (Modification) Order 2004 (S.I. 2004/1105)) provided for the renewal of the power to legislate by Order in Council for a period of six months from 15 April 2004 to the end of 14 October 2004. The fourth Order (The Northern Ireland Act 2000 (Modification) (No 2) Order 2004 (S.I. 2004/2505)) provided for the renewal of the power to legislate by Order in Council for a period of six months from 15 October 2004 to the end of 14 April 2005. The fifth Order (The Northern Ireland Act 2000

(Modification) Order 2005 (S.I. 2005/868)) provided for the renewal of the power to legislate by Order in Council for a period of six months from 15 April 2005 to the end of 14 October 2005. The sixth Order (The Northern Ireland Act 2000 (Modification) (No 2) Order 2005 (S.I. 2005/2046)) provided for the renewal of the power to legislate by Order in Council for a period of six months from 15 October 2005 to the end of 14 April 2006. The seventh Order (The Northern Ireland Act 2000 (Modification) Order 2006 (S.I. 2006/1012)) provided for the renewal of the power to legislate by Order in Council for a period of six months from 15 April 2006 to the end of 14 October 2006. The eighth Order (The Northern Ireland Act 2000 (Modification) Order (No 2) 2006 (SI 2006/2132) provided for the renewal of the power to legislate by Order in Council for a period of six months from 15 October 2006 to the end of 14 April 2007.

4.3 The period provided for in the Order is six months and therefore the period will expire at the end of 14 October 2007. However, if, as expected, devolved Government is restored on the 26 March the Order will have no practical effect.

5. Extent

5.1 This instrument applies to Northern Ireland only.

6. European Convention on Human Rights

6.1 The Secretary of State for Northern Ireland has made the following statement regarding Human Rights:

In my view the provisions of the Northern Ireland Act 2000 (Modification) Order 2007 are compatible with the Convention rights.

7. Policy background

7.1 The 2000 Act makes provision for the operation of government in Northern Ireland while the Assembly is suspended. Without the Order all legislation for Northern Ireland would have to be by Act of Parliament.

7.2 As a result of the St Andrews Agreement Act devolution is expected to be restored on the 26 March 2007. If this happens the Northern Ireland Act 2000 will be repealed on the 28th of March 2007 including the power to legislate by Order in Council. In such circumstances this Order will have no practical effect. The Order has been prepared as a contingency in the event devolution is not restored.

8. Impact

8.1 A Regulatory Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 There is no impact on the public sector.

9. Contact

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