

Report pursuant to section 3(5) of the Northern Ireland (Executive Formation etc) Act 2019

20 November 2019

Report pursuant to section 3(5) of the Northern Ireland (Executive Formation etc) Act 2019

3(1): Executive Formation

This section of the report is based on information provided by the Northern Ireland Office.

Section 3 of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This section of the report is made in accordance with s.3(1) of that Act which states:

The Secretary of State must, on or before 4 September 2019, publish a report explaining what progress has been made towards the formation of an Executive in Northern Ireland (unless an Executive has already been formed).

Further to this, s.3(5) of that Act states :

The Secretary of State shall make a further report under subsection (1) on or before 9 October 2019 and at least every fourteen calendar days thereafter until either an Executive is formed or until 18 December 2019, whichever is the sooner.

Since the last report on Executive formation, published on 6 November, the Secretary of State has continued to have discussions with the political parties about restoring the Executive.

There will be a short window of opportunity after the 12 December 2019 general election and before the 13 January 2020 deadline for Executive formation when the parties could reach an accommodation.

In the absence of any fresh primary legislation, the Secretary of State will come under a duty to call an Assembly election once the 13 January 2020 deadline has passed.

3(6) Transparency of political donations

This section of the report is based on information provided by the Northern Ireland Office.

Section 3 (1) of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This section of the report is made in accordance with s.3(6) of that Act which states:

The report under subsection (1) must include a report on progress made towards preparing legislation to provide for transparency of political donations and loans from 1 January 2014.

There have been no substantive developments since the last report.

As such, the Government will continue to weigh the case for publishing details of historic donations and loans against the possible risks to donors and underline that the Electoral Commission continues to regulate compliance with the permissibility rules relating to donations and loans to political parties.

The Government will consult the Northern Ireland parties in due course about any future changes to the donations and loans legislation.

3(7): Higher education and a Derry/Londonderry university

This is a devolved matter. This section of the report is based primarily on information provided by the Northern Ireland Department for the Economy (DfE).

Section 3 (1) of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This section of the report is made in accordance with s.3(7) of that Act which states:

The report under subsection (1) must include a report on the improvement of higher education provision in Northern Ireland and the establishment of a university whose principal campus is in Derry/Londonderry.

The recent report under s.3(7) of the Act published by the Secretary of State for Northern Ireland on 6 November 2019 set out the current position on Higher Education and a Derry/Londonderry University¹. There have been no developments in this area since this report.

¹https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/845028/Report_pursuant_to_section_3_5_of_the_Northern_Ireland_Executive_Formation_etc_Act_2019_6_November_2019_5_.pdf

3(8): Presumption of non-prosecution

This report is based on information primarily provided by the Northern Ireland Office.

Section 3 (1) of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This section of the report is made in accordance with s.3(8) of that Act which states:

The report under subsection (1) must include a report on progress made towards protecting veterans of the Armed Forces and other security personnel from repeated investigation for Troubles-related incidents by introducing a presumption of non-prosecution, in the absence of compelling new evidence, whether in the form of a Qualified Statute of Limitations or by some other legal mechanism.

The recent report under s.3(8) of the Act published by the Secretary of State for Northern Ireland on 6 November 2019 set out the current position on investigations of Troubles-related deaths and steps being taken to develop an improved system for dealing with the legacy of the Troubles². Since then there have been no significant updates on which to report.

²https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/845028/Report_pursuant_to_section_3_5_of_the_Northern_Ireland_Executive_Formation_etc_Act_2019_6_November_2019_5_.pdf

3(9): New prosecution guidance for Troubles-related incidents

This report is based on information primarily provided by the Northern Ireland Office.

Section 3(1) of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This section of the report is made in accordance with s.3(9) of that Act which states:

The report under subsection (1) must include a report on progress made towards developing new prosecution guidance for legacy cases of Troubles related incidents by the Attorney General for Northern Ireland to take into account whether or not the person who allegedly committed an offence had the means to do so because that person had been lawfully supplied with a deadly weapon, with a presumption in favour of prosecuting in cases where a person who has allegedly committed an offence had the means to do so because that person had been unlawfully supplied with a deadly weapon.

The recent report under s.3(9) of the Act published by the Secretary of State for Northern Ireland on 6 November 2019 set out the current position on investigations of Troubles-related deaths and steps being taken to develop an improved system for dealing with the legacy of the Troubles³. Since then there have been no significant updates on which to report.

³https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/845028/Report_pursuant_to_section_3_5_of_the_Northern_Ireland_Executive_Formation_etc_Act_2019_6_November_2019_5_.pdf

3(10): Abortion law review

This report is based on information provided by the Northern Ireland Office.

Section 3 (1) of the Northern Ireland (Executive Formation etc) Act 2019 requires the Secretary of State to publish and lay before both Houses of Parliament a report on progress made towards forming an Executive and other matters.

This section of the report is made in accordance with section 3(10) of that Act which states:

The report under subsection (1) must include a review of the current legal framework on abortion in Northern Ireland with an analysis of how that framework could be amended by Parliament during the period when there is no Executive, subject to a sunset clause to respect devolution, in order to comply with the human rights obligations of the United Kingdom.

Section 9 of the Northern Ireland (Executive Formation) Act 2019 requires the Government to bring forward regulations to introduce a new legal framework for abortion in Northern Ireland by 31 March 2020. Section 9(1) Act requires this legal framework to implement the recommendations in paragraphs 85 and 86 of the United Nations Committee on the Elimination of all forms of Discrimination Against Women (CEDAW) Report: Inquiry concerning the United Kingdom of Great Britain and Northern Ireland under article 8 of the Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (UN CEDAW report).

On 4 November 2019 the Government launched a consultation on a new regulatory framework for lawful access to abortion services in Northern Ireland, consistent with the UN CEDAW report recommendations. The consultation will run for six weeks, closing on 16 December 2019.

The Government recognises the sensitivities of the issue of access to abortion services, and the strongly held views on all sides of the debate in Northern Ireland. While the Northern Ireland Office is committed to allowing adequate time for consultations, a full 12 week consultation period has not been feasible on this occasion, considering the legal requirement that the regulations are in force by 31 March 2020.

The period of consultation that is now underway provides the appropriate opportunity for the people in Northern Ireland and relevant organisations to properly provide input and views on the proposed policy changes set out in the consultation document.

In developing the consultation document, officials engaged with Royal Colleges in Northern Ireland, statutory bodies, as well as a range of stakeholders. The consultation focuses on how the recommendations in the UN CEDAW report can be implemented in Northern Ireland, and in that context provides an opportunity to invite views from people across Northern Ireland on how access to abortion services should operate under the new legal framework.

Following the consultation period we will be carefully analysing the submissions received, and ensuring that the views received are reflected in the Government's response. The responses will inform the final framework that will be provided for in the regulations in line with the recommendations of the UN CEDAW report.

The health and safety of women and girls, and clarity and certainty for the medical profession, continues to be at the forefront of the Government's consideration in progressing this work.