

PRACTICAL CHANGES TO THE OPERATION OF THE INSTITUTIONS

1. Following discussion with all the parties in the Preparation for Government Committee and here at St Andrews, we are proposing practical changes to the operation of the institutions of the Agreement in the interests of efficiency and fairness, as envisaged by the Agreement itself. We believe the changes will enable all the institutions to operate in an effective and stable manner, with all parties engaging in good faith and in a spirit of genuine partnership.

Strand 1 Issues

2. **A statutory ministerial Code.** An amendment to the Northern Ireland Act 1998 would provide for a statutory ministerial Code, and place a duty upon Ministers (including junior Ministers), notwithstanding their executive authority in their areas of responsibility as defined in the Agreement, to act in accordance with the provisions on ministerial accountability of the Code. The Code would reflect a requirement for safeguards to ensure that all sections of the community could participate and work together successfully in the operation of these institutions and that all sections of the community were protected. There would be arrangements to ensure that, where a decision of the Executive could not be achieved by consensus and a vote was required, any three members of the Executive could require it to be taken on a cross-community basis.

3. The 1998 Act would be amended to require inclusion in the Code of agreed provisions in relation to ministerial accountability. Consistent with paragraphs 19 and 20 of the Agreement, this would provide for the Executive to be the forum for:

- (i) the discussion of, and agreement on, issues which cut across the responsibilities of two or more Ministers, including in particular those that are the responsibility of the Minister of Finance and Personnel.
- (ii) prioritising executive proposals;
- (iii) prioritising legislative proposals;
- (iv) recommending a common position where necessary – for instance, on matters which

- concern the response of the Northern Ireland administration to external relationships;
- (v) agreement each year on (and review as necessary of) a programme incorporating an agreed budget linked to policies and programmes (Programme for Government).
4. The Code will also provide for the discussion of and agreement on any issue which is significant or controversial and:
- (a) clearly outside the scope of the agreed Programme for Government or
 - (b) which the First Minister and Deputy First Minister agree should be brought to the Executive.
5. The new Code would be discussed by the parties and agreed by the Executive when formed. The First Minister and Deputy First Minister would propose the Code to the Assembly. It would have effect once endorsed by cross-community support there. Any amendments to the Code would require cross-community support in the Assembly.
6. **Assembly referrals for Executive review.** An amendment to the 1998 Act would provide for referrals from the Assembly to the Executive of important ministerial decisions. Thirty members of the Assembly might initiate such a referral, within seven days of a ministerial decision or notification of the decision where appropriate. Before he could pass the referral to the Executive, the Presiding Officer, following consultation with the parties in the Assembly, would be required to certify that it concerned an issue of public importance. The Executive would consider the issue within seven days. A second referral could not be made by the Assembly in respect of the same matter. Only matters covered by the Ministerial Code, as set out above, would require a collective decision by the Executive.
7. Reflecting the Pledge of Office, Ministers would be required to act in accordance with any relevant decisions of the Executive and/or Assembly.
8. **Amendments to the Pledge of Office.** The Pledge of Office would require that Ministers would participate fully in the Executive and NSMC/BIC, and would observe the joint nature of the office of First Minister and Deputy First Minister. Before the Government legislates on the

pledge of office it will consider the outcome of further Preparation for Government Committee discussions on policing and the rule of law.

9. **Appointment of Ministers in the Executive.** An amendment would be made to the 1998 Act on appointment of Ministers in the Executive. The Nominating Officer of the largest party in the largest designation in the Assembly shall make a nomination to the Assembly Presiding Officer for the post of First Minister. The Nominating Officer of the largest party in the second largest designation in the Assembly shall similarly nominate for the post of Deputy First Minister. The d'Hondt procedure will then run, as already set out in the 1998 Act, to fill the Ministerial posts in the Executive. Where a vacancy arose later in the office of the FM or DFM, the nominating officer(s) of the party(ies) entitled to nominate as above for the office(s) would do so and the nominee would take up office once he had taken the pledge of office. Where a vacancy arose in another ministerial office, it would be filled as at present. It will be a matter for the standing Institutional Review Committee referred to in paragraph 12 to consider whether the new procedures should continue beyond the life of the present Assembly.

10. **Functions of Office of First Minister and Deputy First Minister.** The First Minister and Deputy First Minister would reach agreement as to whether any functions of the current OFMDFM should be transferred to other departments, and would put proposals to the Executive and Assembly accordingly.

11. **Committee of the Centre.** An amendment to the 1998 Act would provide for the existing Assembly Committee of the Centre to be placed on a statutory footing like that of other departmental scrutiny committees.

12. **Reviews.** An amendment to the 1998 Act would provide for the Assembly to appoint a standing Institutional Review Committee, to examine the operational aspects of the Strand One institutions. Matters to be reviewed in this way would be agreed among the parties. The Committee's reports would be considered by the Executive and Assembly, and, where agreed changes required legislative steps outside the scope of the devolved institutions, by the British Government in consultation as appropriate with the Irish Government.

13. The First Minister and Deputy First Minister would appoint an Efficiency Review Panel, to examine efficiency and value for money of aspects of the Strand One institutions. The FM/DFM would put to the Assembly for approval proposals for the panel's remit, which might include the size of the Assembly and the departmental structure. The Panel would take into account as appropriate the work of the Review of Public Administration. The Panel's report would be considered by the Executive and Assembly, and, where agreed changes required legislative steps outside the scope of the devolved institutions, by the British Government in consultation as appropriate with the Irish Government.

14. **Repeal of the Northern Ireland Act 2000.** The Northern Ireland Act 2006 provides for the automatic repeal of the Northern Ireland Act 2000 if the Assembly is restored by the date set out in that Act. The Government remains committed to the repeal of the Northern Ireland Act 2000 on the restoration of devolved government in Northern Ireland.

15. **Community designation.** An amendment to the 1998 Act would provide that an Assembly Member would not be able to change community designation for the whole of an Assembly term except in the case of a change of membership of political party.

Strands Two and Three Issues

16. **Executive role in preparation for NSMC and BIC meetings.** The amendment to the Northern Ireland Act 1998 on a ministerial Code, described in the British Government's Strand One proposals, would bear on Executive proceedings relating to the North-South Ministerial Council and British-Irish Council.

17. The Code would provide that draft NSMC and BIC decision papers would be circulated to all Executive members within a period (to be decided by the Executive) in advance of a scheduled NSMC or BIC meeting. Any member of the Executive would have the right to seek an Executive discussion on such a paper. Notwithstanding the lead Minister's executive authority in his/her area of responsibility as defined in the Agreement, where the Code provided that certain matters should be considered/agreed in the Executive Committee (see paragraphs 3 to 5 of the British Government's Strand One proposals), this would apply to any draft NSMC/BIC decision

papers falling within those agreed provisions.

18. **Attendance at NSMC and BIC.** Amendments to the 1998 Act would provide for a minister with lead departmental interest in an issue under consideration at an NSMC/BIC meeting to be entitled to attend (with a power for a minister so entitled, by consent, to arrange for another minister attending to discharge his/her responsibilities), and a power for the FM/DFM to adjudicate where a Minister's lead departmental interest was disputed. In the circumstances where a lead Minister was not proposing to attend the meeting in question, and had not arranged for a replacement Minister to discharge his/her responsibilities, there would also be a statutory obligation on FM/DFM to nominate a replacement for a lead Minister to attend the NSMC/BIC and discharge his/her responsibilities. There would be a statutory power for the FM/DFM to require such relevant information from the lead department as would be necessary for the NSMC/BIC meeting in question. Finally, reflecting the existing requirement for representation of the Executive on a cross-community basis at meetings of the NSMC/BIC, there would be a statutory obligation on the FM/DFM to nominate the other Minister whose presence is necessary to fulfil that requirement.

19. **Review.** The Northern Ireland Executive and Irish Government, under the auspices of the NSMC, would appoint a Review Group to examine objectively (1) the efficiency and value for money of existing implementation bodies and (2) the case for additional bodies and areas of co-operation within the NSMC where mutual benefit would be derived. The Group would also input into the work commissioned by the NSMC in June 2002 on the identification of a suitable substitute for the proposed Lights Agency of the Foyle, Carlingford and Irish Lights Commission. The Group would report with recommendations to the NSMC. Any changes to the existing arrangements would require the specific endorsement of the Assembly and Oireachtas. In the meantime, the NSMC would continue to oversee the ongoing work of the Implementation Bodies and work in the areas of co-operation.

20. **Assembly/Oireachtas scrutiny of implementation bodies.** Chairs and Chief Executives of North/South bodies, when called upon and at least yearly, would appear before relevant Assembly Committees. There is provision in the South for similar arrangements in relation to the Oireachtas.

21. **North-South Parliamentary Forum.** The Northern Ireland Executive would encourage the parties in the Assembly to establish a North-South parliamentary forum bringing together equal numbers from the Oireachtas and the Assembly, and operating on an inclusive basis.

22. **Independent Consultative Forum.** The Northern Ireland Executive would support the establishment of an independent North/South consultative forum appointed by the two Administrations and representative of civil society.

23. **Secretariat of British-Irish Council.** Following consultation with its other members, and with a view to giving further impetus to its work, the two Governments would facilitate the establishment of a standing secretariat for the British-Irish Council, if members agree.

24. **East-West Inter-parliamentary Framework.** Following appropriate consultation with the British-Irish Inter-parliamentary Body, the two Governments would encourage the Oireachtas, the British Parliament and the relevant elected institutions to approve an East-West Inter-parliamentary Framework which would embrace all their interests. The framework would operate on an inclusive basis.

25. If the Preparation for Government Committee wishes to reconvene to discuss further changes and reaches agreement by 31 October, the Governments stand ready to implement any such agreed changes.