

Civil Service (Special Advisers) Bill

[AS INTRODUCED]

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SCHEDULE Transitional provisions: termination payments

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TO

Amend the law on special advisers in the Northern Ireland Civil Service.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

Meaning of “special adviser”

1.—(1) A person (P) is a special adviser if subsections (2) to (4) apply.

(2) P is appointed to a position in the Northern Ireland Civil Service by a Minister.

5 (3) P is appointed only in order to advise the Minister.

(4) The terms and conditions of the appointment provide that P will cease to hold that position on the date the Minister ceases to hold office.

Special adviser not to have serious criminal conviction

10 2.—(1) A person is not eligible for appointment as a special adviser if the person has a serious criminal conviction.

(2) Where a person who holds an appointment as a special adviser incurs a serious criminal conviction, that person’s appointment terminates immediately by virtue of this Act.

(3) Where on the date of coming into operation of this section a person—

15 (a) holds an appointment as a special adviser, and

(b) has before that date incurred a serious criminal conviction,
that person’s appointment terminates immediately by virtue of this Act.

(4) Ministers must inform the Department in writing whether any special adviser appointed by them has a serious criminal conviction.

20 **Meaning of “serious criminal conviction”**

3.—(1) In this Act “serious criminal conviction” means a conviction for an offence for which—

- (a) a sentence of imprisonment of 5 years or more was imposed,
 - (b) a sentence of imprisonment for life was imposed,
 - (c) an indeterminate custodial sentence under Article 13 of the Criminal Justice (Northern Ireland) Order 2008 was imposed,
 - (d) a sentence of detention during the pleasure of the Secretary of State, or for life, or for 5 years or more, was imposed under Article 45 of the Criminal Justice (Children) (Northern Ireland) Order 1998 (children convicted of grave crimes), or 5
 - (e) a sentence of detention during the pleasure of the Governor, or for life, or for 5 years or more, was imposed under section 73 of the Children and Young Persons Act (Northern Ireland) 1968 (children convicted of grave crimes). 10
- (2) This section applies whether the person—
- (a) was convicted in Northern Ireland or elsewhere,
 - (b) was convicted before or after the coming into operation of this Act. 15

Annual report

4.—(1) The Department must, as soon as possible after the end of each financial year, issue a report about special advisers employed during that year.

(2) The Minister of Finance and Personnel must lay the report before the Assembly as soon as possible after it has been issued. 20

(3) Without prejudice to the generality of subsection (1), a report under this section must include information about the number and cost of the special advisers.

Code of conduct

5.—(1) The Department must issue a code of conduct for special advisers within 3 months of this section coming into operation. 25

(2) Without prejudice to the generality of subsection (1), the code must provide that special advisers must not—

- (a) authorise the expenditure of public funds,
- (b) exercise any function in relation to the management of any part of the Northern Ireland Civil Service, or 30
- (c) otherwise exercise any function conferred by or under any statutory provision, or any power under the prerogative.

(3) The code may permit a special adviser to exercise any function within subsection (2)(b) in relation to another special adviser. 35

(4) The Minister of Finance and Personnel must lay the code before the Assembly as soon as possible after it has been issued.

(5) The code forms part of the terms and conditions of employment of special advisers.

Code for appointments

6.—(1) The Department must issue a code governing the appointment of special advisers within 3 months of this section coming into operation.

5 (2) Without prejudice to the generality of subsection (1), the code must provide that the appointment of special advisers must be subject to the same vetting procedures as the appointment of Senior Civil Servants to the Northern Ireland Civil Service.

(3) The Minister of Finance and Personnel must lay the code before the Assembly as soon as possible after it has been issued.

10 **Advisers to the Presiding Officer**

7.—(1) In Article 3 of the Civil Service Commissioners (Northern Ireland) Order 1999, paragraph (2)(b) (which excludes certain appointments by relevant members from the requirement that persons are to be selected for appointment to the Northern Ireland Civil Service on merit) shall cease to apply in relation to the
15 Presiding Officer of the Assembly.

(2) Accordingly, in paragraph (3) of that Article, sub-paragraph (a) shall cease to have effect.

Interpretation

8. In this Act—

20 “Department” means the Department of Finance and Personnel

“Minister” means

- (a) the First Minister or deputy First Minister,
- (b) a Northern Ireland Minister,
- (c) a junior Minister,

25 and the words in paragraphs (a), (b) and (c) have the same meaning as in the Northern Ireland Act 1998,

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

Transitional provisions

30 9. The Schedule (transitional provisions: termination payments) has effect.

Commencement

10.—(1) Sections 5 and 6 come into operation on the day on which the Act receives Royal Assent.

35 (2) Section 2(4) comes into operation at the end of the period of 1 month after the day on which the Act receives Royal Assent.

(3) The other provisions of this Act come into operation at the end of the period of 2 months after the day on which the Act receives Royal Assent.

Short title

11. This Act may be cited as the Civil Service (Special Advisers) Act (Northern Ireland) 2012.

SCHEDULE

Section 9

TRANSITIONAL PROVISIONS: TERMINATION PAYMENTS

1. A special adviser whose appointment is terminated by virtue of section 2(3) is entitled to a termination payment from the Department.
- 5 2. The termination payment is an amount equivalent to the greater of—
 - (a) 3 months' salary, or
 - (b) where the special adviser is entitled to a contractual severance payment, that payment.
- 10 3. A contractual severance payment means a payment, to which the special adviser would be entitled under the terms and conditions of the appointment, if the appointment were terminated because the Minister who appointed the special adviser ceased to be a Minister.
4. No termination payment under paragraph 2(b) shall exceed an amount equivalent to 6 months' salary.