

Identity and Language (Northern Ireland) Bill [HL]

[AS AMENDED ON REPORT]

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[AS AMENDED ON REPORT]

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B I L L

TO

Make provision about national and cultural identity and language in Northern Ireland.

BE IT ENACTED by the Queen’s most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows:—

PART 1

NATIONAL AND CULTURAL IDENTITY AND LANGUAGE

1 National and cultural identity

- (1) In the Northern Ireland Act 1998 after Part 7 insert—

“PART 7A

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NATIONAL AND CULTURAL IDENTITY

78F National and cultural identity principles

- (1) A public authority must in carrying out functions relating to Northern Ireland have due regard to the national and cultural identity principles.
- (2) The “national and cultural identity principles” are—
- (a) the principle that everybody in Northern Ireland is free to—
 - (i) choose, affirm, maintain and develop their national and cultural identity, and
 - (ii) express and celebrate that identity in a manner that takes account of the sensitivities of those with different national and cultural identities and respects the rule of law, and
 - (b) the principle that public authorities should encourage and promote reconciliation, tolerance and meaningful dialogue between those with different national and cultural identities with a view to promoting parity of esteem, mutual respect and understanding, and cooperation.

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- (3) In this Part, a reference to a person’s national and cultural identity is a reference to a person’s religious belief, political opinion or racial group.
- (4) In this section—
- “public authority” means an authority listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.)), but does not include—
- (a) a body referred to in note 2 to Schedule 3 but not listed in that Schedule;
- (b) the Office of Identity and Cultural Expression (see section 78G);
- “racial group” has the same meaning as in the Race Relations (Northern Ireland) Order 1997.
- (5) The First Minister and deputy First Minister acting jointly may by regulations modify this section for the purpose of adding authorities to or removing authorities from the definition of “public authority”.
- (6) Regulations under subsection (5) may—
- (a) add an authority only if the provision adding the authority—
- (i) would be within the legislative competence of the Assembly if it were contained in an Act of the Assembly, and
- (ii) would not, if it were contained in a Bill of the Assembly, result in that Bill requiring the consent of the Secretary of State;
- (b) add or remove an authority for a particular purpose, or in relation to particular functions;
- (c) include transitional or supplementary provision.

78G The Office of Identity and Cultural Expression

- (1) A body corporate to be known as the Office of Identity and Cultural Expression is established.
- (2) In this Part “the Office” means the Office of Identity and Cultural Expression.
- (3) Schedule 9A contains provision about the Office.

78H Functions of the Office of Identity and Cultural Expression

- (1) The principal aims of the Office in exercising functions under this section are—
- (a) to promote cultural pluralism and respect for diversity in Northern Ireland;
- (b) to promote social cohesion and reconciliation between those with different national and cultural identities;

- (c) to increase the capacity and resilience of people in Northern Ireland to address issues related to differences in national and cultural identity;
 - (d) to support, and promote the celebration of, the cultural and linguistic heritage of all people living in Northern Ireland. 5
- (2) The Office must –
 - (a) promote awareness of the national and cultural identity principles,
 - (b) monitor and promote compliance with the duty under section 78F(1), and 10
 - (c) report to the Assembly about compliance with that duty.
- (3) In carrying out the functions in subsection (2), the Office may in particular –
 - (a) publish, and revise, guidance about –
 - (i) the duty under section 78F(1), including best practice for complying with that duty, and 15
 - (ii) other matters relating to national and cultural identity in Northern Ireland;
 - (b) undertake, commission or support research into matters relating to national and cultural identity in Northern Ireland (including at the request of the Irish Language Commissioner or the Commissioner for the Ulster Scots and the Ulster British tradition); 20
 - (c) provide, commission or support educational programmes, engagement and training on matters relating to national and cultural identity in Northern Ireland; 25
 - (d) provide grants to persons with aims like those described in subsection (1);
 - (e) cooperate with persons with aims like those described in subsection (1) (whether or not relating to Northern Ireland). 30
- (4) The First Minister and deputy First Minister acting jointly may direct the Office in relation to the exercise of its functions.

78I Further functions: establishing the Castlereagh Foundation

- (1) The Office may –
 - (a) establish a body corporate or other organisation to be known as the Castlereagh Foundation, or 35
 - (b) provide grants for the establishment of such a body or organisation by another person.
- (2) A body or other organisation established or funded under subsection (1) must –
 - (a) have as its principal objective the funding and support of academic research into identity, including national and cultural 40

identity and shifting patterns of identity, in Northern Ireland, and

- (b) be operationally and financially independent from the Office (though this does not affect the Office’s functions under section 78H). 5

(3) The Office may dispose of any interest in the Castlereagh Foundation.”

- (2) Schedule 1 contains provision about the Office of Identity and Cultural Expression.

2 Irish language

- (1) In the Northern Ireland Act 1998 after Part 7A (inserted by section 1(1)) insert – 10

“PART 7B

THE IRISH LANGUAGE

78I Recognition of the status of the Irish language

- (1) The purpose of this Part is to provide official recognition of the status of the Irish language in Northern Ireland by – 15
- (a) providing for the appointment of an Irish Language Commissioner,
- (b) providing for the development of standards of best practice relating to the use of the Irish language by public authorities, and 20
- (c) requiring public authorities to have due regard to such standards.
- (2) This is in addition to any other official recognition of the status of the Irish language including, for example, in – 25
- (a) section 28D,
- (b) the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 (S.I. 1999/859), and
- (c) provision relating to Irish-medium education.
- (3) Nothing in this Part affects the status of the English language. 30

78J The Irish Language Commissioner

- (1) The First Minister and deputy First Minister acting jointly must appoint an Irish Language Commissioner.
- (2) The person for the time being holding office as Irish Language Commissioner is by that name a corporation sole. 35
- (3) In this Part, “the Commissioner” means the Irish Language Commissioner.

- (4) Schedule 9B contains provision about the Commissioner.

78K Functions of the Commissioner

- (1) The principal aim of the Commissioner in exercising functions under this Part is to enhance and protect the use of the Irish language by public authorities in the provision of services to the public or a section of the public in Northern Ireland. 5
- (2) The Commissioner must—
- (a) prepare and publish, in accordance with sections 78L and 78M, standards of best practice relating to the use of the Irish language by public authorities, 10
 - (b) monitor and promote compliance with those standards, and
 - (c) investigate complaints in accordance with section 78O.
- (3) The Commissioner may provide advice, support and guidance to public authorities in relation to the use of the Irish language and the standards of best practice. 15
- (4) The First Minister and deputy First Minister acting jointly may direct the Commissioner in relation to the exercise of the Commissioner’s functions.
- (5) In this Part, a reference to services is a reference to services whether provided for payment or not. 20

78L Irish language best practice standards

- (1) The Commissioner must—
- (a) prepare written standards of best practice relating to the use of the Irish language by public authorities in the provision of services to the public or a section of the public in Northern Ireland (“best practice standards”), and 25
 - (b) submit them to the First Minister and deputy First Minister.
- (2) The First Minister and deputy First Minister acting jointly may approve best practice standards submitted under subsection (1) with or without modifications. 30
- (3) The Commissioner must publish best practice standards approved under subsection (2).
- (4) In preparing best practice standards, the Commissioner must—
- (a) have due regard to any guidance of the First Minister and deputy First Minister acting jointly, and 35
 - (b) consult such public authorities or other persons as the Commissioner considers appropriate.
- (5) Best practice standards—

- (a) must state the date or dates from which they are to be applicable, and
- (b) may make different provision for different public authorities or different descriptions of public authority.

78M Review and revision of best practice standards

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- (1) The Commissioner must, within the period of five years beginning with the day on which best practice standards were last published, review the operation of those standards.
- (2) The Commissioner may revise or withdraw best practice standards—
 - (a) following a review under subsection (1), or
 - (b) at any other time, if the Commissioner considers it necessary or desirable to do so.
- (3) The Commissioner must submit any revised best practice standards to the First Minister and deputy First Minister.
- (4) Subsections (2) to (5) of section 78L apply to revised best practice standards as they apply to best practice standards prepared under section 78L(1).

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78N Duty to have regard to best practice standards

- (1) A public authority must, in providing services to the public or a section of the public in Northern Ireland, have due regard to any published best practice standards.
- (2) A public authority must prepare and publish a plan setting out the steps it proposes to take to comply with the duty in subsection (1).
- (3) A public authority—
 - (a) may revise and re-publish the plan if the authority considers it necessary or desirable to do so, and
 - (b) must revise and re-publish the plan if relevant revised best practice standards are published in accordance with section 78M.
- (4) In preparing or revising a plan under this section, a public authority must consult the Commissioner.

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78O Complaints

- (1) Subsection (2) applies in relation to a complaint to the effect that a public authority has failed to comply with its obligations under section 78N if—
 - (a) the complaint is made by a person claiming to have been directly affected by the failure,
 - (b) the complaint is made in writing to the Commissioner within the period of three months beginning with the day on which

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- the complainant first knew of the matters raised in the complaint, and
- (c) the Commissioner is satisfied that the complainant has notified the public authority of the matters raised in the complaint and the authority has had reasonable opportunity to consider them and respond. 5
- (2) The Commissioner must—
- (a) investigate the complaint, or
- (b) provide the complainant with a written statement of the Commissioner’s reasons for not investigating the complaint. 10
- (3) If investigating the complaint, the Commissioner must—
- (a) notify the complainant and public authority in writing of that fact,
- (b) afford the public authority reasonable opportunity to comment on matters raised in the complaint, and 15
- (c) give the complainant and public authority a report setting out the Commissioner’s findings.
- (4) If the Commissioner finds that the public authority failed to comply with its obligations under section 78N, the Commissioner—
- (a) may include in the report under subsection (3) recommendations as to how the public authority might remedy its failure and avoid future failures, and 20
- (b) must lay the report before the Assembly.
- (5) An investigation under this section may be carried out in private if the Commissioner considers it appropriate. 25

78P Meaning of “public authority”

- (1) In this Part “public authority” means an authority listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.)), but does not include—
- (a) the Commissioner; 30
- (b) the Office of Identity and Cultural Expression;
- (c) the Commissioner for the Ulster Scots and the Ulster British tradition;
- (d) the implementation body to which Part 6 of the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 (S.I. 1999/859) (language) applies. 35
- (e) a body referred to in note 2 to Schedule 3 but not listed in that Schedule.
- (2) The First Minister and deputy First Minister acting jointly may by regulations modify this section for the purpose of adding authorities to or removing authorities from the definition of “public authority”. 40
- (3) Regulations under subsection (2) may—

- (a) add an authority only if the provision adding the authority –
 - (i) would be within the legislative competence of the Assembly if it were contained in an Act of the Assembly, and
 - (ii) would not, if it were contained in a Bill of the Assembly, result in that Bill requiring the consent of the Secretary of State; 5
 - (b) add or remove an authority for a particular purpose, or in relation to specified functions;
 - (c) include transitional or supplementary provision.” 10
- (2) Schedule 2 contains provision about the Irish Language Commissioner.

3 The Ulster Scots and the Ulster British Tradition

- (1) In the Northern Ireland Act 1998 after Part 7B (inserted by section 2(1)) insert –

“PART 7C

THE ULSTER SCOTS AND THE ULSTER BRITISH TRADITION 15

78Q The Commissioner

- (1) The First Minister and deputy First Minister acting jointly must appoint a Commissioner for the Ulster Scots and the Ulster British tradition.
- (2) The person for the time being holding office as the Commissioner for the Ulster Scots and the Ulster British tradition is by that name a corporation sole. 20
- (3) In this Part, “the Commissioner” means the Commissioner for the Ulster Scots and the Ulster British tradition.
- (4) Schedule 9C contains provision about the Commissioner.

78R Functions of the Commissioner 25

- (1) The principal aim of the Commissioner in exercising functions under this Part is to enhance and develop the language, arts and literature associated with the Ulster Scots and the Ulster British tradition in Northern Ireland (in this Part referred to as “the relevant language, arts and literature”). 30
- (2) The Commissioner must –
 - (a) promote awareness of Ulster Scots services provided by public authorities to the public or a section of the public in Northern Ireland;
 - (b) provide or publish such advice, support and guidance as the Commissioner considers appropriate to public authorities in relation to – 35

- (i) developing and encouraging the relevant language, arts and literature (including in relation to facilitating the use of Ulster Scots in the provision of services to the public or a section of the public in Northern Ireland);
 - (ii) the effect and implementation of the international instruments specified in subsection (3) in relation to the relevant language, arts and literature; 5
- (c) investigate complaints in accordance with section 78S.
- (3) The specified international instruments are—
 - (a) the Council of Europe’s Charter for Regional or Minority Languages opened for signature on 5 November 1992, 10
 - (b) the Council of Europe’s Framework Convention for the Protection of National Minorities opened for signature on 1 February 1995, and
 - (c) the Convention on the Rights of the Child adopted by the General Assembly of the United Nations on 20 November 1989, 15
including any protocols which are in force in relation to the United Kingdom, but subject to any reservations, objections or interpretative declarations by the United Kingdom for the time being in force.
- (4) In preparing guidance for publication, the Commissioner must consult with such public authorities and other persons as the Commissioner considers appropriate. 20
- (5) The First Minister and deputy First Minister acting jointly may direct the Commissioner in relation to the exercise of the Commissioner’s functions. 25
- (6) In subsection (2)(a), “Ulster Scots services” means services provided in Ulster Scots or likely to be of particular interest to those with an interest in the relevant language, arts and literature.
- (7) In this Part, a reference to services is a reference to services whether provided for payment or not. 30
- (8) Nothing in this Part affects the status of the English language.

78S Complaints

- (1) Subsection (2) applies in relation to a complaint to the effect that a public authority did not have due regard to published facilitation guidance if— 35
 - (a) the complaint is made by a person claiming to have been directly affected by the failure,
 - (b) the complaint is made in writing to the Commissioner within the period of three months beginning with the day on which the complainant first knew of the matters raised in the complaint, and 40

- (c) the Commissioner is satisfied that the complainant has notified the public authority of the matters raised in the complaint and the authority has had reasonable opportunity to consider and respond.
- (2) The Commissioner must— 5
- (a) investigate the complaint, or
- (b) provide the complainant with a written statement of the Commissioner’s reasons for not investigating the complaint.
- (3) If investigating the complaint, the Commissioner must— 10
- (a) notify the complainant and public authority in writing of that fact,
- (b) afford the public authority reasonable opportunity to comment on matters raised in the complaint, and
- (c) give the complainant and public authority a report setting out the Commissioner’s findings. 15
- (4) If the Commissioner finds that the public authority did not have due regard to published facilitation guidance, the Commissioner—
- (a) may include in the report under subsection (3) recommendations as to how the public authority might have better regard to published facilitation guidance, and 20
- (b) may lay the report before the Assembly.
- (5) An investigation under this section may be carried out in private if the Commissioner considers it appropriate.
- (6) In this section “published facilitation guidance” means guidance published under section 78R(2)(b)(i) in relation to facilitating the use of Ulster Scots in the provision of services to the public or a section of the public in Northern Ireland. 25

78T Meaning of “public authority”

- (1) In this Part “public authority” means an authority listed in Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.)) but does not include— 30
- (a) the Commissioner;
- (b) the Office of Identity and Cultural Expression;
- (c) the Irish Language Commissioner;
- (d) the implementation body to which Part 6 of the North/South Co-operation (Implementation Bodies) (Northern Ireland) Order 1999 (S.I. 1999/859) (language) applies; 35
- (e) a body referred to in note 2 to Schedule 3 but not listed in that Schedule.
- (2) The First Minister and deputy First Minister acting jointly may by regulations modify this section for the purpose of adding authorities to or removing authorities from the definition of “public authority”. 40

- (3) Regulations under subsection (2) may –
- (a) add an authority only if the provision adding the authority –
 - (i) would be within the legislative competence of the Assembly if it were contained in an Act of the Assembly, and 5
 - (ii) would not, if it were contained in a Bill of the Assembly, result in that Bill requiring the consent of the Secretary of State;
 - (b) add or remove an authority for a particular purpose, or in relation to specified functions; 10
 - (c) include transitional or supplementary provision.”
- (2) Schedule 3 contains provision about the Commissioner for the Ulster Scots and the Ulster British tradition.
- 4 Use of languages other than English in proceedings**
- The Administration of Justice (Language) Act (Ireland) 1737 (c. 7) is repealed. 15
- 5 Use of Ulster Scots in education**
- In the Education (Northern Ireland) Order 1998 (S.I. 1998/1759 (N.I. 13)) after Article 89 insert –
- “Ulster Scots in education**
- 89A** It shall be the duty of the Department to encourage and facilitate the use and understanding of Ulster Scots in the education system.” 20

PART 2

POWERS OF THE SECRETARY OF STATE

- 6 Concurrent powers and powers of direction**
- (1) The Secretary of State may do anything that a Northern Ireland Minister or Northern Ireland department could do in the exercise of an identity and language function. 25
- (2) The Secretary of State may direct a Northern Ireland Minister, Northern Ireland department or identity and language authority to do or not do anything that the Minister, department or authority – 30
- (a) could do in the exercise of an identity and language function;
 - (b) could otherwise do (but this is subject to subsection (3)).
- (3) The Secretary of State may give a direction under subsection (2)(b) if the Secretary of State considers the direction appropriate – 35
- (a) for the purpose of ensuring the effective operation of an identity and language authority, or

- (b) in relation to the exercise, by the Secretary of State, of another function under this section.
- (4) After giving a direction under subsection (2), the Secretary of State must—
- (a) lay a copy of the direction before Parliament, and
 - (b) publish the direction. 5
- (5) In this Part—
- “identity and language authority” means—
- (a) the Office of Identity and Cultural Expression;
 - (b) the Irish Language Commissioner;
 - (c) the Commissioner for the Ulster Scots and the Ulster British tradition; 10
- “identity and language function” means—
- (a) a function conferred by or under Parts 7A to 7C of the Northern Ireland Act 1998 other than a power to make regulations or give a direction, or 15
 - (b) a function ancillary to such a function;
- “Northern Ireland Minister” includes the First Minister and deputy First Minister acting jointly.

7 Concurrent powers and powers of direction: supplementary provision

- (1) The fact that a matter has not been brought to the attention of, or discussed and agreed by, the Executive Committee of the Assembly is to be disregarded when determining what a Northern Ireland Minister, Northern Ireland department or identity and language authority could do for the purposes of section 6(1) and (2). 20
- (2) A Northern Ireland Minister, Northern Ireland department or identity and language authority must comply with a direction under section 6(2) irrespective of whether any matter has been brought to the attention of, or discussed and agreed by, the Executive Committee of the Assembly. 25
- (3) A direction under section 6(2) does not require a disclosure of information if the disclosure would contravene the data protection legislation (but in determining whether a disclosure would do so, take into account the duty to comply with a direction under section 6(2)). 30
- (4) The power in section 44(1) of the Northern Ireland Act 1998 (power to call witnesses and documents) is not exercisable in relation to an excluded person in connection with the exercise of a function under or in accordance with a direction under section 6(2). 35
- (5) Subsection (4) does not apply in relation to an excluded person who is or has been an identity and language authority, or works or has worked for or on behalf of an identity and language authority, in connection with the person’s time as or with the authority. 40
- (6) In this section—

“data protection legislation” has the same meaning as in the Data Protection Act 2018 (see section 3(9) of that Act);

“excluded person” means a person—

- (a) who is or has been a Minister of the Crown, or
- (b) who is or has been in Crown employment within the meaning of Article 236 of the Employment Rights (Northern Ireland) Order 1996. 5

8 Establishing the Castlereagh Foundation

- (1) The Secretary of State may—
 - (a) establish a body corporate or other organisation to be known as the Castlereagh Foundation, or 10
 - (b) provide grants for the establishment of such a body or organisation by another person.
- (2) A body or other organisation established or funded under subsection (1) must— 15
 - (a) have as its principal objective the funding and support of academic research into identity, including national and cultural identity and shifting patterns of identity, in Northern Ireland, and
 - (b) be operationally and financially independent from the Office of Identity and Cultural Expression (though this does not affect the Office’s functions under section 78H of the Northern Ireland Act 1998). 20
- (3) The Secretary of State may dispose of any interest in the Castlereagh Foundation.

PART 3

CONSEQUENTIAL AND GENERAL PROVISION 25

9 Consequential amendments

- (1) In section 96 of the Northern Ireland Act 1998 after subsection (4A) insert—
 - “(4B) The powers to make regulations under sections 78F, 78P and 78T are exercisable by statutory rule for the purposes of the Statutory Rules (Northern Ireland) Order 1979. 30
 - (4C) Regulations may not be made under sections 78F, 78P or 78T unless a draft of the regulations has been laid before and approved by resolution of the Assembly.”

- (2) In Schedule 1 to the Superannuation (Northern Ireland) Order 1972 (S.I. 1972/1073 (N.I. 10)) (employments to which Article 3 can apply) insert at the appropriate place –
- “A member of the Office of Identity and Cultural Expression”
- “Employment by the Office of Identity and Cultural Expression” 5
- “Irish Language Commissioner”
- “Employment by the Irish Language Commissioner”
- “Commissioner for the Ulster Scots and the Ulster British tradition”
- “Employment by the Commissioner for the Ulster Scots and the Ulster British tradition”.
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- (3) In Part 3 of Schedule 1 to the Northern Ireland Assembly Disqualification Act 1975 (disqualifying offices) insert at the appropriate place –
- “A member of the Office of Identity and Cultural Expression.”
- “Irish Language Commissioner.”
- “Commissioner for the Ulster Scots and the Ulster British tradition.”
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- (4) In Schedule 3 to the Public Services Ombudsman Act (Northern Ireland) 2016 (c. 4 (N.I.)) (authorities subject to investigation) insert at the appropriate place under “Miscellaneous” –
- “The Office of Identity and Cultural Expression”
- “Irish Language Commissioner” 20
- “Commissioner for the Ulster Scots and the Ulster British tradition”.
- (5) In Part 7 of Schedule 1 to the Freedom of Information Act 2000 (offices and bodies which are public authorities for the purposes of the Act) insert at the appropriate place –
- “The Office of Identity and Cultural Expression.” 25
- “Irish Language Commissioner.”
- “Commissioner for the Ulster Scots and the Ulster British tradition.”

10 Commencement

- (1) This Part comes into force on the day on which this Act is passed.
- (2) Parts 1 and 2 come into force on such day as the Secretary of State may by regulations made by statutory instrument appoint. 30
- (3) Regulations under subsection (2) may appoint different days for different purposes.

11 Extent

This Act extends to Northern Ireland only. 35

12 Short title

This Act may be cited as the Identity and Language (Northern Ireland) Act 2022.

SCHEDULES

SCHEDULE 1

Section 1

THE OFFICE OF IDENTITY AND CULTURAL EXPRESSION

In the Northern Ireland Act 1998 after Schedule 9 insert—

“SCHEDULE 9A

Section 78G

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THE OFFICE OF IDENTITY AND CULTURAL EXPRESSION

Status

- 1 (1) The Office is not to be regarded—
 - (a) as a servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown. 10
- (2) Property of the Office is not to be regarded as property of, or held on behalf of, the Crown.

Membership

- 2 The Office is to consist of— 15
 - (a) a Director appointed by the First Minister and deputy First Minister acting jointly, and
 - (b) no more than five other members appointed by the First Minister and deputy First Minister acting jointly, each, a “member”. 20

Tenure of members

- 3 (1) Subject to the provisions of this Schedule, a person holds office as a member in accordance with the terms of the person’s appointment.
- (2) A person may not be appointed as a member for more than five years at a time, or more than twice. 25
- (3) A person may resign as a member by notice in writing to the First Minister and deputy First Minister.
- (4) The First Minister and deputy First Minister acting jointly may dismiss a person from office as a member by notice in writing if satisfied that the person— 30
 - (a) has without reasonable excuse failed to discharge the functions of the office for a continuous period of three months beginning not earlier than six months before the day of dismissal; 35

- (b) has been convicted of a criminal offence;
 - (c) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order, or has made a voluntary arrangement;
 - (d) is unable or unfit to carry out the functions of the office of a member. 5
- (5) Each of the expressions used in sub-paragraph (4)(c) has the same meaning as in the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)).

Members' salary etc. 10

- 4 (1) The Office may pay to or in respect of a member such remuneration, allowances, fees and sums for the provision of a pension as the Executive Office may determine.
- (2) Where a person ceases to be a member otherwise than on the expiration of a term of office and the Executive Office determines that special circumstances justify compensation, the Office may pay to or in respect of the person such amount as the Executive Office may determine. 15
- (3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance. 20

Staff

- 5 (1) The Office may appoint such number of staff as the Office may determine.
- (2) The terms and conditions of a person's appointment are to be determined by the Office; but that is subject to the provisions of this Schedule. 25
- (3) The Office may pay to or in respect of a member of staff such remuneration, allowances, fees and sums for the provision of a pension as the Office may determine.
- (4) Where a person ceases to be a member of staff otherwise than on the expiration of a term of appointment and the Office determines that special circumstances justify compensation, the Office may pay to or in respect of the person such amount as the Office may determine. 30
- (5) A determination of the Office under this paragraph requires the approval of the Executive Office and Department of Finance. 35

Assistance

- 6 (1) The Executive Office may provide the Office with staff, facilities or services for the purpose of assisting the Office in the exercise of its functions. 40

- (2) In this Schedule, a reference to a member of staff includes a reference to a member of staff appointed on secondment; but a period of secondment does not affect a person’s continuity of service in the Northern Ireland civil service.

Exercise of functions 5

- 7 Any function of the Office may be exercised by –
- (a) the Director, or
 - (b) another member or member of staff authorised (whether generally or specifically) for the purpose.

General powers 10

- 8 The Office may do whatever the Office considers is appropriate for facilitating, or incidental or conducive to, the exercise of the Office’s functions, other than borrowing money.

Proceedings

- 9 (1) The Office may regulate its own proceedings. 15
- (2) The validity of any proceedings of the Office is not affected by a vacancy or defective appointment.

Funding

- 10 (1) The Executive Office may make grants to the Office of such amounts as it determines with the approval of the Department of Finance. 20
- (2) The Office must pay to the Executive Office any sums received by the Office in the course of, or in connection with, the exercise of the Office’s functions.
- (3) Sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may with the approval of the Department of Finance direct. 25

Accounts

- 11 (1) The Office must – 30
- (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 must be in such form and contain such information as the Executive Office may with the approval of the Department of Finance direct. 35

- (3) The Office must, within such period after the end of each financial year as the Executive Office may direct, send copies of the statement of accounts relating to that year to –
 - (a) the Executive Office, and
 - (b) the Comptroller and Auditor General for Northern Ireland. 5
- (4) The Comptroller and Auditor General for Northern Ireland must –
 - (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 Executive Office.
- (5) The Executive Office must lay a copy of the statement of accounts and the report of the Comptroller and Auditor General for Northern Ireland before the Assembly. 10
- (6) In this paragraph and paragraph 12 “financial year” means –
 - (a) the period beginning with the day on which the first person appointed as Director takes office and ending on the 31 March following that day, and 15
 - (b) each successive period of twelve months ending on 31 March.

Annual report

- 12 (1) As soon as reasonably practicable after the end of each financial year, the Office must send to the Executive Office a report on the performance of the Office’s functions during that year. 20
- (2) The Executive Office must lay a copy of the report before the Assembly.

Seal and evidence 25

- 13 (1) The application of the seal of the Office must be authenticated by the signature of –
 - (a) the Director, or
 - (b) another member or member of staff authorised for the purpose. 30
- (2) A document purporting to be an instrument issued by the Office and to be duly executed under the Office’s seal or signed on its behalf is to be received in evidence and is, unless the contrary is proved, taken to be such an instrument.”

SCHEDULE 2

Section 2

THE IRISH LANGUAGE COMMISSIONER

In the Northern Ireland Act 1998 after Schedule 9A (inserted by Schedule 1) insert—

“SCHEDULE 9B

Section 78J

5

THE IRISH LANGUAGE COMMISSIONER

Status

- 1 (1) The Commissioner is not to be regarded—
 - (a) as a servant or agent of the Crown, or
 - (b) as enjoying any status, immunity or privilege of the Crown. 10
- (2) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown.

Tenure of office

- 2 (1) Subject to the provisions of this Schedule, a person holds office as the Commissioner in accordance with the person’s terms of appointment. 15
- (2) A person may not be appointed as Commissioner for more than five years at a time, or more than twice.
- (3) A person may at any time resign as Commissioner by notice in writing to the First Minister and deputy First Minister. 20
- (4) The First Minister and deputy First Minister acting jointly may dismiss a person from office as Commissioner by notice in writing if satisfied that the person—
 - (a) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of three months beginning not earlier than six months before the day of dismissal; 25
 - (b) has been convicted of a criminal offence;
 - (c) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order, or has made a voluntary arrangement; 30
 - (d) is unable or unfit to perform the functions of the office.
- (5) Each of the expressions used in sub-paragraph (4)(c) has the same meaning as in the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19)). 35

Commissioner's salary, etc

- 3 (1) The Executive Office may pay to or in respect of the Commissioner such remuneration, allowances, fees and sums for the provision of a pension as the Executive Office may determine.
- (2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that special circumstances justify compensation, the Executive Office may pay to or in respect of the person such amount as the Executive Office may determine. 5
- (3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance. 10

Staff

- 4 (1) The Commissioner may appoint such number of staff as the Commissioner may determine.
- (2) The terms and conditions of a person's appointment are to be determined by the Commissioner; but that is subject to the provisions of this Schedule. 15
- (3) The Commissioner may pay to or in respect of a member of staff such remuneration, allowances, fees and sums for the provision of a pension as the Commissioner may determine. 20
- (4) Where a person ceases to be a member of staff otherwise than on expiration of a term of appointment and the Commissioner determines that special circumstances justify compensation, the Commissioner may pay to or in respect of the person such amount as the Commissioner may determine. 25
- (5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and Department of Finance.

Assistance

- 5 (1) The Executive Office may provide the Commissioner with staff, facilities or services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions. 30
- (2) The Office of Identity and Cultural Expression may provide the Commissioner with services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions. 35
- (3) In this Schedule, a reference to a member of staff includes a reference to a member of staff appointed on secondment; but a period of secondment does not affect a person's continuity of service in the Northern Ireland civil service.

Exercise of functions

- 6 Any function of the Commissioner may be exercised by any member of staff of the Commissioner who has been authorised (whether generally or specially) by the Commissioner for the purpose. 5

General powers

- 7 The Commissioner may do whatever the Commissioner considers appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner’s functions, other than borrowing money. 10

Funding

- 8 (1) The Executive Office may make grants to the Commissioner of such amounts as it determines with the approval of the Department of Finance.
- (2) The Commissioner must pay to the Executive Office any sums received by the Commissioner in the course of, or in connection with, the exercise of the Commissioner’s functions. 15
- (3) Sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may with the approval of the Department of Finance direct. 20

Accounts

- 9 (1) The Commissioner must –
- (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. 25
- (2) The statement of accounts must be in such form and contain such information as the Executive Office may with the approval of the Department of Finance direct.
- (3) The Commissioner must, within such period after the end of each financial year as the Executive Office may direct, send copies of the statement of accounts relating to that year to – 30
- (a) the Executive Office, and
- (b) the Comptroller and Auditor General for Northern Ireland.
- (4) The Comptroller and Auditor General must – 35
- (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 Executive Office.

(5) The Executive Office must lay a copy of the statement of accounts and the report of the Comptroller and Auditor General before the Assembly.

(6) In this paragraph and paragraph 10 “financial year” means –
(a) the period beginning with the day on which the first person appointed as Commissioner takes office and ending on the 31 March following that day, and
(b) each successive period of twelve months ending on 31 March.

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Annual report

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10 (1) As soon as practicable after the end of each financial year, the Commissioner must send to the Executive Office a report on the exercise of the Commissioner’s functions during that year.

(2) The Executive Office must lay a copy of the report before the Assembly.

15

Seal and evidence

11 (1) The application of the seal of the Commissioner must be authenticated by the signature of –

- (a) the Commissioner, or
- (b) a member of staff authorised for the purpose.

20

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

25

Property

12 (1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) 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 vests in the successor on appointment.”

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SCHEDULE 3

Section 3

COMMISSIONER FOR THE ENHANCEMENT AND DEVELOPMENT OF THE LANGUAGE, ARTS
 AND LITERATURE ASSOCIATED WITH THE ULSTER SCOTS AND THE ULSTER BRITISH
 TRADITION

In the Northern Ireland Act after Schedule 9B (inserted by Schedule 2) insert— 5

“SCHEDULE 9C 78Q

COMMISSIONER FOR THE ENHANCEMENT AND DEVELOPMENT OF THE LANGUAGE, ARTS
 AND LITERATURE ASSOCIATED WITH THE ULSTER SCOTS AND THE ULSTER BRITISH
 TRADITION

Status 10

- 1 (1) The Commissioner is not to be regarded—
- (a) as a servant or agent of the Crown; or
 - (b) as enjoying any status, immunity or privilege of the Crown.
- (2) The property held by the Commissioner is not to be regarded as property of, or held on behalf of, the Crown. 15

Tenure of office

- 2 (1) Subject to the provisions of this Schedule, a person holds office as the Commissioner in accordance with the person’s terms of appointment.
- (2) A person may not be appointed as Commissioner for more than five years at a time, or more than twice. 20
- (3) A person may at any time resign as Commissioner by notice in writing to the First Minister and deputy First Minister.
- (4) The First Minister and deputy First Minister acting jointly may dismiss a person from office as Commissioner by notice in writing if satisfied that the person— 25
- (a) has, without reasonable excuse, failed to discharge the functions of the office for a continuous period of three months beginning not earlier than six months before the day of dismissal;
 - (b) has been convicted of a criminal offence;
 - (c) has become bankrupt or the subject of a bankruptcy restrictions order, a debt relief order or a debt relief restrictions order, or has made a voluntary arrangement; 30
 - (d) is unable or unfit to perform the functions of the office.
- (5) Each of the expressions used in sub-paragraph (4)(c) has the same meaning as in the Insolvency (Northern Ireland) Order 1989 (S.I. 1989/2405 (N.I. 19). 35

Commissioner's salary, etc

- 3 (1) The Executive Office may pay to or in respect of the Commissioner such remuneration, allowances, fees and sums for the provision of a pension as the Executive Office may determine.
- (2) Where a person ceases to hold office as Commissioner otherwise than on the expiration of a term of office and the Executive Office determines that special circumstances justify compensation, the Executive Office may pay to or in respect of the person such amount as the Executive Office may determine. 5
- (3) A determination of the Executive Office under this paragraph requires the approval of the Department of Finance. 10

Staff

- 4 (1) The Commissioner may appoint such number of staff as the Commissioner may determine.
- (2) The terms and conditions of a person's appointment are to be determined by the Commissioner; but that is subject to the provisions of this Schedule. 15
- (3) The Commissioner may pay to or in respect of a member of staff such remuneration, allowances, fees and sums for the provision of a pension as the Commissioner may determine.
- (4) Where a person ceases to be a member of staff otherwise than on expiration of a term of appointment and the Commissioner determines that special circumstances justify compensation, the Commissioner may pay to or in respect of the person such amount as the Commissioner may determine. 20
- (5) A determination of the Commissioner under this paragraph requires the approval of the Executive Office and Department of Finance. 25

Assistance

- 5 (1) The Executive Office may provide the Commissioner with staff, facilities or services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions.
- (2) The Office of Identity and Cultural Expression may provide the Commissioner with services for the purpose of assisting the Commissioner in the exercise of the Commissioner's functions. 30
- (3) In this Schedule, a reference to a member of staff includes a reference to a member of staff appointed on secondment; but a period of secondment does not affect a person's continuity of service in the Northern Ireland civil service. 35

Exercise of functions

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

General powers

5

- 7 The Commissioner may do whatever the Commissioner considers appropriate for facilitating, or incidental or conducive to, the exercise of the Commissioner’s functions, other than borrowing money.

Funding

- 8 (1) The Executive Office may make grants to the Commissioner of such amounts as it determines with the approval of the Department of Finance. 10
- (2) The Commissioner must pay to the Executive Office any sums received by the Commissioner in the course of, or in connection with, the exercise of the Commissioner’s functions.
- (3) Sub-paragraph (2) does not apply to such sums, or sums of such description, as the Executive Office may with the approval of the Department of Finance direct. 15

Accounts

- 9 (1) The Commissioner must –
- (a) keep proper accounts and proper records in relation to the accounts; and 20
- (b) prepare a statement of accounts in respect of each financial year.
- (2) The statement of accounts must be in such form and contain such information as the Executive Office may with the approval of the Department of Finance direct. 25
- (3) The Commissioner must, within such period after the end of each financial year as the Executive Office may direct, send copies of the statement of accounts relating to that year to –
- (a) the Executive Office; and
- (b) the Comptroller and Auditor General for Northern Ireland. 30
- (4) The Comptroller and Auditor General must –
- (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 Executive Office.
- (5) The Executive Office must lay a copy of the statement of accounts and the report of the Comptroller and Auditor General before the Assembly. 35
- (6) In this paragraph and paragraph 10 “financial year” means –

- (a) the period beginning with the day on which the first person appointed as Commissioner takes office and ending on the 31 March following that day; and
- (b) each successive period of twelve months ending on 31 March.

Annual report

5

- 10 (1) As soon as practicable after the end of each financial year, the Commissioner must send to the Executive Office a report on the exercise of the Commissioner’s functions during that year.
- (2) The Executive Office must lay a copy of the report before the Assembly.

Seal and evidence

10

- 11 (1) The application of the seal of the Commissioner must be authenticated by the signature of –
 - (a) the Commissioner; or
 - (b) a member of staff authorised for the purpose.
- (2) A document purporting to be an instrument issued by the Commissioner and to be duly executed under the Commissioner’s seal or signed by or on behalf of the Commissioner is to be received in evidence and is, unless the contrary is proved, taken to be such an instrument.

15

Property

- 12 (1) Any real or personal property vested in the Commissioner vests (unless and until disclaimed or disposed of) 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 vests in the successor on appointment.”

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Identity and Language (Northern Ireland) Bill [HL]

[AS AMENDED ON REPORT]

A

B I L L

TO

Make provision about national and cultural identity and language in Northern Ireland.

Lord Caine

Ordered to be Printed, 6th July 2022.

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