

**EXPLANATORY MEMORANDUM TO THE
NORTHERN IRELAND (SENTENCES) ACT 1998 (SPECIFIED
ORGANISATIONS) ORDER 2004**

2004 No. 3009

1. This explanatory memorandum has been prepared by the Northern Ireland Office is laid before Parliament by Command of Her Majesty. It contains information for the Joint Committee on Statutory Instruments.

2. Description

The Order removes the Ulster Defence Association (UDA) and the Ulster Freedom Fighters (UFF) from the list of proscribed organisations specified under section 3(8) of the Northern Ireland (Sentences) Act 1998 ("the 1998 Act"). The effect of specifying an organisation is that a prisoner who is, or who would be likely to become, a supporter of such an organisation, is ineligible for release under the 1998 Act or, if released, is liable to recall to prison.

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

This Order was made by the Secretary of State under the urgency procedure under section 19(3) of the 1998 Act. It came into force on 15th November. This was because, once having taken the decision to de-specify the organisations in question, the Secretary of State was obliged to have regard to the human rights of those potentially affected by his decision, and undertook to provide for the application of the release provisions at the earliest opportunity. The notification and explanation required by the proviso to section 4(1) of the Statutory Instruments Act 1946 were sent to the Speaker and Lord Chancellor on 17 November 2004.

4. Legislative Background

The 1998 Act provides that the Secretary of State may specify an organisation which he believes is concerned in terrorism connected with the affairs of Northern Ireland, or in promoting or encouraging it and has not established or is not maintaining a complete and unequivocal ceasefire. If an organisation is specified a prisoner who is a member of the organisation would not be eligible to apply to the Sentence Review Commission for early release under the 1998 Act.

5. Extent

This Order extends to Northern Ireland only.

6. European Convention on Human Rights

In the Secretary of State's view, the Order is compatible with the European Convention on Human Rights.

7. Policy background

The 1998 Act gives life to the early release scheme set out in the Belfast Agreement. The Secretary of State is obliged to keep the list of specified organisations (whose members may not benefit from the early release provisions) under review and may add an organisation to, or remove an organisation from, that list as he judges appropriate, by making an order under section 3(8).

The Secretary of State and the Leader of the House of Lords announced, in statements to Parliament on 15th November, that the Secretary of State was satisfied that the UDA/UFF no longer needed to be specified under the 1998 Act, and that the Secretary of State was making an order removing the UDA/UFF from the list of specified organisations.

There has been considerable public and media interest in this decision, which has received a broad welcome tempered with an understandable measure of caution. The Order is important in terms the wider political and peace process in Northern Ireland.

8. Impact

The Order has no regulatory or financial impact.

9. Contact

In the event of any queries on the legislation, please contact Mark McGuckin, Head of Security Policy and Operations Division, Northern Ireland Office, on 028 9052 7028.