

FROM GEORGE GRAY
Legislative Counsel
11 February, 1999

cc Mr Stephens
Mrs Devlin

Mr Heaton

LETTERS PATENT

1. Thank you for the draft Order in Council. The letters patent seem to me to strike the right balance between formality and efficacy. For the record I agree with your comments on the writing in of the date of Royal Assent by the Presiding Officer. That date forms part of the Act and will appear at the front page of the Act under the long title

2. I have only a few comments on matters of detail.

3. There is some inconsistency as regards the description of what the letters patent actually do. The title of the SI and the footnote to the letters patent refer to Royal Assent to **Acts**. On the other hand Article 1(2) and the body of the letters patent refer to Royal Assent to **Bills**. Given the wording of the enabling power in section 49(1) of the 1998 Act, should reference throughout not be to Royal Assent to a Bill?

4. In earlier correspondence with Martha Wooldridge I noted that you had concerns about saying that an Act would have full force of law after Royal Assent. I very much agree. But I wonder if much the same concerns arise about the words at the end of paragraph 2 of the letters patent that "the Bill is not of force and effect in the Law without Our Royal Assent". That seems to carry the implication that with Royal Assent it is of force and effect in the Law which we agree is not necessarily the case. It might be closer to the spirit of section 5(2) of the 1998 Act if the last two lines of para 2 said something like "but the said Bill does not become an Act of the Northern Ireland Assembly without Our Royal Assent." ?

5. I have reservations about paragraph 5 of the Letters Patent beginning "And Finally we". This seems to amount simply to a restatement of section 5(3) of the 1998 Act. The moment at which Royal Assent is effective is laid down by the 1998 Act and it does not therefore seem appropriate for subordinate legislation under that Act to repeat the text of the Act albeit in slightly different words. I would suggest omitting this paragraph.

Yours sincerely

George Gray