

TS/16/10

FROM: TERRY SMYTH
DATE: 16 OCTOBER 1998

322/10
cc Mrs Devlin - O

~~MRS BROWN - O~~

BANK HOLIDAYS

1. Your previous notings refer.
2. Generally speaking, the Secretary of State does not have a role in relation to Bank Holidays - the great majority of them are either **prescribed under Schedule 1 to the (UK-wide) Banking and Financial Dealings Act 1971** (Spring Bank Holiday, August Bank Holiday, Boxing Day and Easter Monday); are proclaimed each year by HM The Queen (New Year's Day, May Day); **or are regarded as "Common Law Holidays"** (Good Friday and Christmas Day).
3. The two exceptions are the two Northern Ireland-specific Bank Holidays, the Battle of the Boyne (12 July) and St Patrick's Day (17 March). St Patrick's Day is prescribed as a Bank Holiday under Schedule 1 to the Banking and Financial Dealings Act 1971 (it was first prescribed in the Bank Holiday (Ireland) Act 1903). Where 17 March falls on a weekday, the Secretary of State has no function. However, where it falls on a Saturday, the Secretary of State, by virtue of Section 1(5) of the 1971 Act, may proclaim the following Monday as the Bank Holiday (where it falls on a Sunday the Bank Holiday is **automatically** taken on the 18th).
4. In the case of the Battle of the Boyne Anniversary, this has to be proclaimed each year by the Secretary of State under Section 1(5) of the 1971 Act. Prior to 1973, this function was performed by the Governor of Northern Ireland (it was first proclaimed as a Bank Holiday in 1926).

5. It can be seen that, in taking action in relation to 12 July and (where necessary) 17 March, the Secretary of State is exercising her Gubernatorial role. On this basis, I think that she should continue to carry out this role post-devolution.

[Signed: Terry Smyth]

T SMYTH