13. Statutory framework and responsibilities

The constitutional and legislative framework

13.1 Between 1921 and 1972 Northern Ireland had a devolved government within the United Kingdom, with responsibility for a wide range of regional and domestic matters. A number of matters affecting the UK as a whole continued to be dealt with from Westminster, which retained supreme authority over the Province. The Heads of the various NI Ministries were Ministers in the NI Government who sat in the Northern Ireland Parliament and were politically answerable there for those Ministries.

13.2 In 1972, however, the United Kingdom Parliament in Westminster prorogued the Parliament of Northern Ireland and imposed direct rule. In 1973 the Northern Ireland Constitution Act abolished the Parliament of Northern Ireland, and the Northern Ireland Assembly Act replaced the Parliament with an Assembly. The former Ministries were renamed Departments. The Heads of Departments became members of a Northern Ireland Executive answerable to the Assembly. However, these arrangements collapsed a few months later.

13.3 The Assembly was itself prorogued in May 1974. Under powers conferred by the Northern Ireland Act 1974, the Assembly was later dissolved in March 1975, and direct rule from Westminster was reimposed, and remained in place throughout the period covered by the Report. The Northern Ireland Act conferred the functions of the Heads of Departments on the Departments themselves, which were then placed under the direction and control of the Secretary of State for Northern Ireland, a Minister in the UK Government. The NI Departments, however, continued to be staffed by a separate Northern Ireland Civil Service, which was not part of the civil service in Great Britain.

13.4 The Northern Ireland Constitution Act 1973 divided the potential fields of legislation and administration into three categories: excepted matters, reserved matters and transferred matters. Excepted matters were those which were properly the remit of central government in Whitehall and would remain so, such as defence, international relations, nationality, nearly all taxes and coinage. Reserved matters included the Courts, police, public order and trade, and it was envisaged that such matters would eventually become the responsibility of the Departments. Transferred matters were to be administered solely by the Departments, reflecting Northern Ireland’s different legislative history and requirements, and administrative structure. Diseases of animals, agricultural production and food safety all fell within the definition of transferred matters.

508 Most of the information in this section comes from the 'Northern Ireland Guide to Primary Legislation' and from DN01 tab 4
509 Northern Ireland (Temporary Provisions) Act 1972
510 Section 31 of the Northern Ireland Constitution Act 1973
511 Northern Ireland Assembly (Prorogation) Order 1974 made under the Northern Ireland Constitution Act 1973, section 27
512 Northern Ireland Assembly (Dissolution) Order 1975 made under the Northern Ireland Act 1974, section 1
13.5 Many United Kingdom Acts also applied to Northern Ireland, but the usual method of making specific NI legislation was in the form of ‘Orders in Council’ made under the 1974 Act.\textsuperscript{513} Although these were clearly secondary legislation, delegated by Parliament, they were treated in effect as primary legislation, and subordinate legislation could be made under them. The two Orders in Council under which all of the BSE legislation was made were the Diseases of Animals (NI) Order 1981 and the Food (NI) Order 1989. Each of these Orders in Council conferred upon the relevant Department the power to make whatever Orders or Regulations were necessary to give effect to their provisions.\textsuperscript{514} Thus the BSE Orders and Regulations could be made by the Department concerned and signed by its Secretary or Assistant Secretary.

The Secretary of State for Northern Ireland

13.6 The Secretary of State for Northern Ireland was head of the Northern Ireland Office, and was assisted by two Ministers of State and two Parliamentary Under-Secretaries of State. He was directly responsible for political and constitutional matters and other major policy issues while responsibility for the Departments of Agriculture, Economic Development, Education, Environment, Finance and Personnel, and Health and Social Services was shared among the other Ministers. Mr Tom King was Secretary of State for Northern Ireland between 1985 and 1989 followed by Mr Peter Brooke until 1992. Sir Patrick Mayhew held office for the remainder of the period covered by this Report.

The Northern Ireland Office

13.7 In contrast to the arrangements in Wales and Scotland, the Departments in the Northern Ireland government were not part of the Northern Ireland Office and were staffed by a separate civil service. Although the Secretary of State was answerable in Parliament for these Departments, constitutionally he was head of the Northern Ireland Office, which was a Home Civil Service Department and, as such, separate from the Northern Ireland Departments.

Legislation on animal health

13.8 The Department of Agriculture for Northern Ireland (DANI)\textsuperscript{515} was responsible for the control of animal disease under the Diseases of Animals Order (NI) 1981. This Order empowered DANI to prohibit the sale or use of any kind of fodder or litter by which disease might be spread; to make diseases notifiable; to introduce slaughter and compensation schemes; and to prohibit or regulate the movement of animals or poultry, and the removal of carcasses.\textsuperscript{516} Most of the secondary legislation made in response to BSE was introduced under this Order.

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\textsuperscript{513} An Order in Council is an Order issued by the Privy Council in the name of the Queen. Some Orders in Council are made under statutory authority and some by virtue of the royal prerogative. When Orders in Council were made under the Northern Ireland Act 1974, the procedures set out in Schedule 1 to the Act had to be followed.

\textsuperscript{514} Articles 2 and 60 of the Diseases of Animals (NI) Order 1981 (No. 1115 of 1981); and articles 2 and 72 of the Food (NI) Order 1989 (No. 846 of 1989).

\textsuperscript{515} Charts of Ministers and of DANI personnel can be found on pp. 155–8.

\textsuperscript{516} Articles 5(1)(h), 10, 16 and 19.
Under the Agriculture Act 1970 (which had application throughout the UK, including Northern Ireland), DANI was empowered to make Regulations to control the composition or content of fertilisers and feedstuffs, but was required to consult with interested and affected parties beforehand. In addition to control of disease and feedstuffs, DANI was responsible for regulating the primary processing of meat at slaughterhouses under the Slaughterhouses Act (NI) 1953 and the Agricultural Produce (Meat Regulation and Pig Industry) Act (NI) 1962.

**Legislation on food safety**

**13.9** Food safety in Northern Ireland was governed by three successive Acts during the period of this Report: the Food and Drugs Act (NI) 1958, the Food (NI) Order 1989 and the Food Safety (NI) Order 1991. Thus none of the primary legislation under which BSE control measures were introduced in England applied in Northern Ireland, which necessitated the making of separate secondary legislation at each step of the way. Most food safety powers were vested in the Northern Ireland Department of Health and Social Services (DHSS), including the power to make legislation relating to food hygiene, composition and labelling. DANI had responsibility for the regulation of the production side of the food industry, for significant parts of the food-processing sector (as mentioned in the preceding paragraph) and for surveillance of milk on dairy farms and in liquid milk plants. Essentially, however, and in contrast to the situation in Great Britain, the DHSS had the lead responsibility in food safety.

**13.10** Four Health and Social Services Boards were set up under the Health and Personal Social Services Order 1972 to fulfil a similar function to District Health Authorities in England. Each was responsible for a different Area: East, West, North and South. Local authorities formed Public Health Committees for each Area, which employed Environmental Health Officers (EHOs). Enforcing food safety legislation was the responsibility of the EHOs.