

REGENERATION BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department for Social Development (“the Department”) in order to assist the reader of the Bill and to help inform debate on it. It does not form part of the Bill and has not been endorsed by the Assembly.
2. The Memorandum needs to be read in conjunction with the Bill. It is not, and is not meant to be, a comprehensive description of the Bill. So where a clause or part of a clause or Schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The purpose of the Bill is to confer certain regeneration and community development powers on, and transfer of certain functions relating to Lagan-side, to the new district councils.
4. This Bill contributes to the reform of local government and is part of the suite of legislation, the main piece of which is the Local Government Act (Northern Ireland) 2014, within which the new councils will operate from 1 April 2015. The delivery of the powers and functions conferred on a council by this Bill will be taken forward in the context of a council’s statutory community planning duty, including, in relation to improving the social well-being of the district, promoting equality of opportunity in accordance with section 75 of the Northern Ireland Act 1998 and, without prejudice to this, having regard to the desirability of promoting good relations as provided for in the Local Government Act (Northern Ireland) 2014. The delivery of the powers and functions will also be subject to the framework for the protection of the interests of minorities provided by Parts 3 and 4 (sharing position of responsibility and membership of committees across the political parties and independents represented on a council) and Part 7 (in relation to decision-making) of the Local Government Act (Northern Ireland) 2014 and any associated regulations.

CONSULTATION

5. Public consultation on the proposals under the Review of Public Administration (as the Reform of Local Government was then known) to transfer functions from the Department for Social Development to district councils took place from 1 March 2010 to 26 April 2010 and the proposals were widely supported.

OPTIONS CONSIDERED

6. The Executive decided to implement a radical reform of local government including reducing the number of councils from 26 to 11, introducing a new corporate governance regime and transferring a range of new powers and responsibilities from central government to local government. A new duty to bring forward community plans for their areas was also included.
7. A key element of the reform package related to DSD's responsibilities for urban regeneration and community development, and NIHE functions in respect of the regulation of housing unfitness in the social rented sector and houses in multiple occupation.
8. It was necessary to consider the need for primary legislation and the extent to which the Department should be prescriptive in terms of councils' discharge of their new responsibilities. In the course of preparing the final draft Bill, the Department also reviewed whether the package of responsibilities to be transferred remained appropriate.
9. The Department looked at the option of transferring these responsibilities to councils without the need for primary legislation but concluded that councils needed specific powers to carry out most of the work being transferred.
10. The Department also considered the option of being prescriptive in legislation by setting out where and when and how councils could use their new powers relating to urban regeneration and community development but concluded that it was best that councils were left to determine their own priorities and actions for their areas. Councils will however, have to have regard for any guidance issued by the Department.
11. It was also decided that housing functions should not be included in this legislation.

COMMENTARY ON CLAUSES

12. The Bill has four Parts, totalling twenty-three (23) clauses, and three Schedules. A commentary on the provisions follows. Comments are not given where the wording is self-explanatory:

PART 1: POWERS IN RELATION TO SOCIAL NEED

Clause 1: Financial assistance to address social need

This Clause makes provision for councils to provide financial assistance to third parties which it considers will benefit (directly or indirectly) areas of social need in its district. A list of examples of the types of activities which a council may fund is given but this list is not prescriptive and councils will have wide discretion about what they decide to fund. Financial assistance may take the form of grants, loans, guarantees or the taking of any interest in property or in a body corporate. In recognition of the Department's and the Northern Ireland Housing Executive's wider housing functions, any financial assistance a council wishes to provide for the provision of housing will require prior approval of the Department. This Clause will not empower councils to build social housing.

Clause 2: Conditions attaching to financial assistance under section 1

This Clause will enable a council to attach such conditions as it thinks fit to the provision of financial assistance and failure to comply with certain conditions may be an offence. For the purposes of determining whether a condition has been complied with or whether financial assistance has become repayable a council may by notice require a person to give information or produce books, records or other documents. Failure to comply with such a notice or providing false information in response to such a notice will be an offence.

Clause 3: Power to carry out works for the improvement of the environment

This Clause allows a council to carry out works for the improvement of the environment which it considers will benefit an area of social need in its district. Certain works require the consent of the Department for Regional Development.

Clause 4: Power of Department to provide financial assistance

This Clause amends Article 3 of the Social Need (Northern Ireland) Order 1986 by removing reference to districts in defining the focus of the Department's financial assistance. This is consistent with the Reform of Local Government in which the Department will adopt a more regional focus and work in partnership with the new

Councils who will take the decisions on local projects needed to bring about real improvements for their people.

PART 2: DEVELOPMENT POWERS AND OTHER POWERS FOR PLANNING PURPOSES

Clause 5: Development schemes of councils

This Clause allows a council to prepare a development scheme for an area in its district which it considers should be developed, redeveloped or improved as a whole. Development schemes must be defined by a map and set out in general terms the intentions for land use and layout.

The Department will be able to direct a council to prepare a development scheme where it considers that the regeneration of an area is required and likely to be of significance to the whole or a substantial part of Northern Ireland and the council is best placed to take this forward. This provision is related to clause 9 and the ability of the Department to make regulations requiring councils to provide information in relation to certain types of development proposals.

Clause 6: Adoption of development schemes by councils

This Clause specifies the procedure for consulting on development schemes and considering objections. Councils will be required to consult with the Department for Social Development in the preparation of development schemes and will also have to publicly advertise their draft schemes. As part of this consultation the Department will consider any scheme with a housing element in light of the Northern Ireland Housing Executive's wider housing functions.

Any relevant objections to a draft scheme which cannot be resolved must be considered by the planning appeals commission at public local inquiry. The Department will have the final decision on a development scheme as it cannot be formally adopted by a council without the approval of the Department.

Clause 7: Acquisition of land by councils for planning purposes

A council will be able to acquire land, by agreement or compulsorily, for certain planning purposes. For compulsorily purchases, the procedure for acquisition of land by vesting order is set out in Schedule 6 of the Local Government Act (Northern Ireland) 1972. Councils must apply to the Department to make a vesting order if they wish to compulsorily acquire land.

Councils are required to publicly advertise their intention to vest and consider and resolve any objections received. If the objections cannot be resolved the Department

will cause a local inquiry to be held by the planning appeals commission and will consider their report before deciding on whether to make the vesting order.

Proceedings for the acquisition of land in connection with a development scheme and proceedings in connection with the adoption of a development scheme can be taken concurrently up to a point but a vesting order cannot be made until the development scheme has been adopted.

Clause 8: Disposal of land held by councils for planning purposes

A council will be able to dispose of land which it holds for planning purposes in order to secure the best use of land or buildings or to secure the erection or construction of buildings or carrying out of works which the council considers are needed for the proper planning of the area in which the land is situated.

Clause 9: Development of land held by councils for planning purposes

A council will be able to develop land which it holds for planning purposes by erecting or constructing buildings or carrying out works or entering into agreements with any person for the development of land. A council will also be able to maintain, repair and generally manage buildings or works on land which is being held for development purposes.

The Department will have the power to make regulations which would: require councils to provide the Department with specific information about their plans to develop land in particular circumstances, and, enable the Department to delay the council from using its development powers in those circumstances for a specified period of time. The detail of any such regulations will be developed and consulted upon separately. The purpose of such regulations will be to ensure that the Department is kept informed of any proposed development which is likely to be of significance to the whole or a substantial part of Northern Ireland. It is intended that such regulations would be used to inform the Department's decision about whether to direct a council to prepare a development scheme under clause 5.

Clause 10: Powers of council before acquisition of land for planning purposes

A council will be able to enter into agreements for the development or disposal of land which it intends to acquire compulsorily, at any time after it has published notice of the application for a vesting order.

Clause 11: Extinguishment by council of right of way

A council will be able to extinguish by order public right of way over land which it holds for planning purposes if it considers that this is necessary for the proper development of the land. A council will have to publicise its intentions and serve notice

on any affected statutory undertakers and electronic communications operators, for example NIE or Northern Ireland Water. Councils may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.

Sub-sections (7)–(11) contain a number of safeguards for operators of electronic communications networks in the event of an extinguishment order being made.

Clause 12: Power of council to require information as to estates in land

A council will be able to issue a notice requiring the occupier of any premises, or a person receiving rent for any premises, to provide certain information to enable the council to make an order or issue or serve notice. Failure to comply with such a notice or providing false information in response to such a notice will be an offence.

Clause 13: Development schemes made by the Department

This Clause amends Article 85 of the Planning (Northern Ireland) Order 1991 by restricting the ability of the Department to make development schemes. In order for the Department to make a development scheme, it must be satisfied that the development, redevelopment or improvement of an area will be of significance to the whole or a substantial part of Northern Ireland and that the relevant district council is not best placed to carry this out.

Clause 14: Interpretation of this Part

This Clause defines a number of the terms used in PART 2 of the Bill.

PART 3: LAGANSIDE

Clause 15: Transfer to council of certain functions in relation to Lagan

This Clause provides for the repeal of the Lagan Development (Northern Ireland) Order 1989 (“the Lagan Order”) and Schedule 1 sets out the powers which the Council for the district of Belfast will be able to exercise in relation to part of the River Lagan. These powers will enable the Council to safeguard the legacy of the work done by the Lagan Corporation and include: the power to execute works to facilitate access to the river or promote recreational use; power to construct bridges and weirs (subject to all necessary permissions); power to make byelaws regulating e.g. fishing or the use of the river by vessels.

PART 4: GENERAL AND SUPPLEMENTARY

Clause 16: Surveys, studies, etc.

A council will be able to conduct or fund studies, investigations or research related to the exercise of its functions under Part 1 of the Bill e.g. social need in its district; development or redevelopment of its area etc.

Clause 17: Guidance

Following consultation with councils, the Department will be able to issue guidance in relation to regeneration. Councils shall have regard to any guidance issued by the Department.

Clause 18: Powers to make orders under the Local Government Act in connection with this Act

This Clause provides an amendment to the Local Government Act (Northern Ireland) 2014 which will allow the Department to make a scheme for the transfer of designated assets and liabilities from the Department to the new Councils.

Clause 19: Regulations and orders

This Clause details the Assembly controls which will apply to regulations and orders under the Bill.

Clause 20: Interpretation

This Clause provides definitions of terms used in the Bill.

Clause 21: Minor and consequential amendments and repeals

This Clause provides for the amendments set out in Schedule 2 and the repeals set out in Schedule 3 to have effect.

Clause 22: Commencement

This Clause provides that Clauses 1 to 17 and 21 come into operation on 1 April 2016.

Clause 23: Short title

This Clause provides that the Act shall be known as the Regeneration Act (Northern Ireland) 2015.

FINANCIAL EFFECTS OF THE BILL

13. The budget for urban regeneration, community development and Lagside will transfer from the Department to councils in 2015. To effect the transfer, it is intended to make a 'one-off' payment to councils via the rating system.

HUMAN RIGHTS ISSUES

14. The provisions of the Bill are compatible with the European Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

15. Under the terms of Section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the Section 75 groups. A copy of the screening form can be viewed on the Department's website www.dsdni.gov.uk.

LEGISLATIVE COMPETENCE

16. The Minister for Social Development has made the following statement under Section 9 of the Northern Ireland Act 1998:

"In my view the Regeneration Bill would be within the legislative competence of the Northern Ireland Assembly."