



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Welfare Reform Bill: Consideration of
Amendments

18 April 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Mr Sydney Anderson
Ms Paula Bradley
Ms Pam Brown
Mr Gregory Campbell
Mr Michael Copeland
Mr Fra McCann

Also in attendance:

The Clerk of Bills Northern Ireland Assembly

The Chairperson: Members are aware that the key issue was that the Committee had adopted a number of positions on the relevant clauses in the Welfare Reform Bill. That was done after our own deliberations and some recommendations and suggestions from the Examiner of Statutory Rules. Since then, as Committee members are aware, we have had a suggestion from the Examiner of Statutory Rules that the outworking of the Committee's deliberations may have been overstretched from what he had intended. I propose to ask the Clerk of Bills to explain that a little for members, and, after that, members can take away the information that we have in the paper and deliberate with their party grouping.

As I said, we propose to deal with this next week as normal, but if the legislation is rescheduled to go to the Chamber next week or the week after, we might have to have an earlier meeting next week to discuss this. Remember that at the core of this is the fact that the Assembly and the Committee wanted to ensure that, given that this is enabling legislation, we increase the threshold for Assembly scrutiny for these types of things.

The Clerk of Bills: Members might want to have a look at the latest response from Gordon Nabney, the Examiner of Statutory Rules. It sets out the background and the current situation very well. As is stated in there, he provided advice to you on all the regulation-making powers in the Bill, and he recommended that you may wish to consider an amendment to the regulation-making powers in clauses 33 and 91 to make them subject to the confirmatory resolution procedure rather than the negative resolution procedure. I drafted an amendment to clause 44 for the Committee just after the clause-by-clause scrutiny, and members agreed the wording of the provision. Subsequently, it came to our attention that the way in which it was drafted would mean that any of the regulations, whether by primary or secondary legislation, would be subject to confirmatory procedure, which brings it to a much bigger amount. The Committee Clerk and I asked the Examiner of Statutory Rules whether that

was his intention or whether he wanted to confine it to regulations arising from primary legislation-making powers. He confirmed that he did, so that required us to have a look at the draft again. It is pretty much the same draft, except that the amendment now states:

"regulations under section 33 containing provision which amends or repeals a provision of an Act of Parliament or Northern Ireland legislation."

It is the last part of that sentence that confines it to primary legislation rather than to all legislation. Members are revisiting the wording of the provision that you agreed and seeing whether you agree with the Examiner of Statutory Rules' clarified position. I am not sure whether the Committee Clerk wants to mention the Department's position.

The Committee Clerk: The Examiner of Statutory Rules refers to the Department's letter as well. His letter states:

"The Department points out that in the main the envisaged provision covered in regulations under this provision would be mainly consequential and would not require debate."

"This provision" refers to clauses 33 and 91.

In effect, the Department is still holding to the position that any provisions under regulation-making powers in clauses 33 and 91 should be subject to negative resolution. The Examiner of Statutory Rules is basically saying that most of the regulation-making powers stemming from that will probably be minor, but there is a possibility in the future that something more significant and as yet unenvisaged may come from the Department. Therefore, it is still his position that they should be subject to confirmatory procedure. So, although the bulk of the regulation may be relatively minor, there may be something that will come in the future that will be significant. Therefore, it is his view that the issue should still be subject to the confirmatory procedure. That is essentially the basis. The Department says that they should be subject to negative resolution, but the Examiner of Statutory Rules says that, to be sure, you should have those clauses subject to the confirmatory procedure.

The Chairperson: When we considered the matter as a Committee a couple of times, we were of the view that we want to have what we believe is an appropriate threshold to be met. It sounds as though the Committee position as adopted is still relevant. I suggested earlier that we have the information in front of us, and we can take it away and then return to it if we want to revisit it formally. I was simply saying if the Bill is rescheduled for Consideration Stage on Tuesday 30 April, that will mean that we will have an earlier meeting next Thursday if we want to revisit the issue. We may not want to revisit it, but I am just signalling that. Rather than have a 10.00 am meeting next week, we may need to meet a bit earlier so that we can meet deadlines with the Bill Office.

Mr Campbell: I will come to the substantive issue in a minute, but on the issue of meeting slightly earlier, I do not know what Mark's position was, but there was a road fatality on the way from Londonderry to here today. I left earlier because I knew about it early on, but if something were to happen for those of us who travel a considerable distance, an even earlier start than 10.00 am might prove problematic. It might not, but it is worth bearing that in mind. Are we thinking about 9.30 am?

The Committee Clerk: No. It would have to be before 9.00 am. If the Business Committee meets next Tuesday, and it schedules the Consideration Stage for the following Tuesday, any amendments have to be tabled by 9.30 am the previous Thursday. That is next Thursday. Therefore, to facilitate some discussion around the issue, to ensure that agreement is reached, and to get the amendments to the Bill Office before 9.30 am, you would realistically be looking at an 8.45 am start.

Mr Campbell: Those of us who are travelling some distance could probably camp out.

The Committee Clerk: Again, this is all down to availability, but the other option is to schedule a short meeting on another day next week. That may not suit, but it is a possibility.

The Chairperson: OK. We will keep that live. We appreciate that anything could happen to make it difficult for members to be here, and we want everybody to be here to address the legislation. Thank you.