



Northern Ireland
Assembly

Committee for Communities

OFFICIAL REPORT (Hansard)

Support for Mortgage Interest etc (Security
for Loans) Bill: Committee Deliberations

8 February 2022

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Kellie Armstrong (Deputy Chairperson)
Mr Andy Allen
Mr Stephen Dunne
Ms Ciara Ferguson
Mr Paul Frew
Ms Aine Murphy
Miss Aisling Reilly

Witnesses:

Ms Una McConnell	Department for Communities
Ms Hayley Ward	Department for Communities

The Deputy Chairperson (Ms Armstrong): We are to be briefed by Una McConnell and Hayley Ward, but only Una is online at the moment.

I hope that we will not take too long today, Una. We will begin with clause 1, "Security for loans for mortgage interest etc". I invite you to take us through your response to the last set of queries that we raised after last week's meeting, after which I will ask members for questions or comments.

Ms Una McConnell (Department for Communities): The first query was about the process for write-off and the operational processes for the registration and removal of a statutory charge. I forwarded you the loan management guidance and referred you to paragraphs 8 and 9. I forwarded the whole thing, so that should cover it.

I will move on to the discussions regarding the potential to amend article 13(9) of the Welfare Reform and Work (Northern Ireland) Order 2016 so that draft regulations would be subject to affirmative, rather than negative, resolution. We liaised with the Office of the Legislative Counsel (OLC) and the Departmental Solicitor's Office (DSO) as appropriate, and we provided a response. We believe that that would create an unnecessary burden when making amendments to support for mortgage interest (SMI) legislation. As you are probably aware, NI social security is bound by the parity principle and regularly operates to tight deadlines with regard to social security legislation. If the regulations were draft affirmative, any changes made by the Department for Work and Pensions (DWP) could be delayed in NI because of having to timetable a debate in the Assembly. That could come at a detrimental cost to SMI loan recipients and, potentially, the NI block grant. For example, the Loans for Mortgage Interest (Amendment) Regulations (Northern Ireland) 2021 amended the Loans for Mortgage Interest Regulations (Northern Ireland) 2017 to clarify that claimants who have fled the accommodation for which they receive support for mortgage interest loan payments due to fear of violence in the home will be able to continue receiving loan payments for that accommodation for a

specified time. The point is that those amendments would have been delayed had we had to move to the draft affirmative procedure and had article 13(9) of the 2016 Order required the Assembly control. Furthermore, it would have delayed the beneficial changes.

All proposed regulations are passed to the Committee under the SL1 procedure for its consideration and discussion prior to their making. Once made, the statutory rule (SR) is sent for Committee scrutiny. If there is any disagreement with current amending regulations that are subject to the negative resolution procedure, they can be annulled if a resolution of annulment is passed within the statutory period, and the statutory rule becomes void.

The Office of the Legislative Counsel further comments that it is worth noting that the regulations under Article 16, "Transitional provisions", and 22, "Power to make consequential amendments", in the Welfare Reform and Work (Northern Ireland) Order 2016 are also subject to negative resolution. The approach taken in the 2016 Order, whereby the exercise of power is subject to negative resolution seems to be common in social security legislation, although that is obviously subject to exceptions where an important or potentially controversial exercise of power is contemplated. The approach taken follows the corresponding provisions in the Welfare Reform and Work Act 2016.

If we then make amendments relating to the statutory rule, the regulations would be split; otherwise, they would all be subject to the more stringent procedure. The Departmental Solicitor's Office agreed with the comments made by OLC and has commented that the power being given to the Department by the Bill is the power to make regulations providing for the repayment of a loan to be secured by way of a statutory charge, thus providing the taxpayer with another method of security within the existing SMI framework. The Bill does not change DFC policy on providing assistance to homeowners by paying interest on their mortgage. The Bill essentially fulfils the policy intent that all loans be secured.

In summary, the Department believes that the current process — Committee consideration prior to regulations being made, scrutiny after they are made and the ability to have the statutory rule annulled — ensures that all statutory rules that are subject to negative resolution receive adequate consideration and scrutiny. That is just a quick summary of the letter.

The Deputy Chairperson (Ms Armstrong): Thank you very much.

Ms McConnell: Is that OK?

The Deputy Chairperson (Ms Armstrong): Yes, absolutely. Do members have any comments or questions for Una on that information? In case you have not seen it, there is a copy of the letter in your tabled papers. Does anybody have anything? I am checking online. I do not see anyone coming forward. Do you see that, Una? Well explained for everyone. Thank you so much.

Ms McConnell: Thank you.

The Deputy Chairperson (Ms Armstrong): We will move on to clause 2, folks, if there are no other comments on Una's update. No issues or comments have been raised on clause 2. Have members any other comments on the clause, or, Una and Hayley, have you anything to add on clause 2?

Ms McConnell: No, not on clause 2.

The Deputy Chairperson (Ms Armstrong): Do you have anything else to bring forward, Una?

Ms McConnell: We got a copy of the Hansard report from the last meeting, and we wanted to clarify the bit about recovery from a person's estate or equity. Hayley, do you want to do that? I am happy to do it now, if you want.

Ms Hayley Ward (Department for Communities): No, I do not mind; I will do it.

I will clarify the comments about repayment from a person's estate. The Department will only seek to recover the SMI loan from any available equity. When the transfer is being processed, the Department will be made aware of any available equity and will then decide whether to seek repayment of the loan. In a case in which there is sufficient equity to seek recovery, if person B — the person to whom the property is being transferred — does not wish to sell the property in order to repay the loan, person B could, at that point, look to the estate to repay the loan.

The Department does not look at the available funds in a person's estate when considering whether a loan can be repaid, so the decision to seek recovery is based solely on the available equity in the property. Write-off of the loan would be considered only if there were no available equity.

The Deputy Chairperson (Ms Armstrong): OK. That was when we were trying to work out whether, if A and B were not married, and B inherited —

Ms McConnell: It was about the transfer of the property to another person and about how, if that person did not want to sell, they could pay. We had a look at the Hansard report yesterday. It was not incorrect, but we wanted to clarify it just to make sure that it was completely clear. It is hard to explain. When we in the Department look at repayment of an SMI loan, we do not look at a person's estate. We look only at the available equity in the property. Is that OK?

The Deputy Chairperson (Ms Armstrong): For clarity, say, for instance, Mrs Smith — I am just using that name — unfortunately passes away and an amount is outstanding on her SMI loan. The home is passed on to her son or daughter, who does not want to sell it. There would be equity in the house if it were to be sold. If the son or daughter inherited the house and did not want to sell the house, there would obviously be a calculation made that is based on the market value of the house. Could he or she pay the SMI loan back at that stage without having to sell the house?

Ms McConnell: Yes.

The Deputy Chairperson (Ms Armstrong): Perfect. That is great. That is something that the Committee was concerned about. Thank you very much for clarifying that. It is worth having that on the record. Thank you.

Are there any other parts of the Bill that the officials need us to remember before we go into our formal clause-by-clause consideration and write the report?

Ms McConnell: No. That is it.

The Deputy Chairperson (Ms Armstrong): Brilliant. Folks, on that basis, thank you very much.