

FINANCIAL PROVISIONS BILL 2013

Delegated Powers Memorandum

Introduction

1. This memorandum identifies provisions within the Financial Provisions Bill which confer power to make delegated legislation.

This memorandum should be read in conjunction with the Explanatory and Financial Memorandum accompanying the Bill.

2. Financial Provisions Bills are required at intervals to tidy up routine financial matters, including adjustments to statutory limits and various technical and non-controversial issues.
3. DFP routinely surveys departments, the Northern Ireland Audit Office and other bodies to identify any financial related legislation in need of updating or amending and then gathers these small amendments into a Financial Provisions Bill.
4. The Bill is technical in nature to deal with routine financial matters that do not affect the overall quantum of any expenditure. Therefore, it is not normally consulted upon.
5. Departments were asked to commission non-controversial items for inclusion in the Bill and a total of six items were considered suitable for inclusion. Of the six, only two clauses (3 and 6) will require further powers to make subordinate legislation.

Overview of the Financial Provisions Bill

6. The Bill consists of 6 substantive Clauses and a Schedule which lists provisions for the repeal of statutory provisions related to clauses 1 and 3.

Delegated Powers

Clause 3 – Provision as to payment of interest on funds in court.

7. This clause will empower the Department of Justice (with the concurrence of DFP) to make provision as to the payment of interest on funds in court by way of departmental Direction. The Court Funds Office (CFO) is responsible for the management of funds held in court on behalf of minors and patients who are deemed incapable of managing their own affairs. CFO applies interest to funds held which are set out in the Court Funds Rules (NI) 1979 and can only be adjusted by way of a new Statutory Rule which can take from 8 to 12 weeks. Funds are placed in deposit accounts or short term and long term investment accounts which earn interest in accordance with Bank of England base rates. CFO applies interest accordance to the 1979 rules. Differences between base rates and CFO rates will lead to either a surplus or deficit where the deficit is recovered from the Consolidated Fund. CFO interest rates in England and Wales can be amended by way of a Ministerial direction which allows the CFOs there to react more efficiently to changes in Bank of England base rates.

8. This clause comes into operation when the Department of Justice may by order appoint. It will need a commencement order and a 'tidy up' amendment to the Court Funds Rules (Northern Ireland) 1979 to remove any reference to existing interest rates as appropriate. Any amendment will be subject to negative resolution. The timing of the amendment and how soon it can be taken forward will impact on when the clause can be commenced. The purpose of the change is to ensure that the CFO can react quickly to future interest rate rises. The Department of Justice has advised that as interest rates are not expected to rise in the near future, there is no immediate urgency for commencement.

Section 3 (a) for 'may make rules' substitute 'may make provision as to the payment of interest on funds in court and may make rules'.

Power Conferred on : The Department of Justice

Power Exercisable by : Statutory Rule (Rules)

Assembly Procedure : Negative Resolution

Clause 6 – Expenditure on bodies providing services for the police.

9. This clause will allow the Northern Ireland Police Fund (NIPF) and the Police Rehabilitation and Retraining Trust (PRRT) to have a statutory footing and allow the Department of Justice (DOJ) to make regulations regarding the constitution, functions, procedures and financing of these bodies. The regulations for this clause will be subject to negative resolution taken forward by the Department of Justice.

Section 6 subsection (2) Without prejudice to any other statutory provision enabling it in that behalf, the Department of Justice may

make regulations providing for the constitution, functions, procedures and financing of the bodies referred to in subsection (1).

Power Conferred on : The Department of Justice

Power Exercisable by : Statutory Rule (Regulation)

Assembly Procedure : Negative Resolution

Commencement Order

Clause 5 – Accounts and Audit: Health and Social Care bodies.

10. Consistency between the Audit and Accountability (Northern Ireland) Order 2003 and the Health and Social Care (Reform) Act (Northern Ireland) 2009 is required to allow the Comptroller and Auditor General (C&AG) to carry out data matching exercises for the purposes of assisting in the prevention and detection of fraud. Since the Audit and Accountability Order has not been updated to refer to the restructured health and social care bodies, an amendment to Article 4D (6)(b)(i) of the Audit and Accountability (Northern Ireland) Act 2003 is required to correspond to the references in the Health and Social Care (Reform) Act (Northern Ireland) 2009, which will maintain consistency with the definition of a 'relevant NHS body' (for the purposes of data matching) in the other jurisdictions of the United Kingdom. This clause comes into operation when Department of Finance and Personnel may by order appoint and will be taken forward via a commencement order.