

# **OFF-STREET PARKING (FUNCTIONS OF DISTRICT COUNCILS) BILL**

## **EXPLANATORY AND FINANCIAL MEMORANDUM**

### **INTRODUCTION**

1. This Explanatory and Financial memorandum has been prepared by the Department for Regional Development 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 does not seem to require an explanation or comment, none is given.

### **BACKGROUND AND POLICY OBJECTIVES**

3. In March 2008 the Northern Ireland Executive agreed proposals for the reform of local government as part of the Review of Public Administration (RPA). These proposals included the transfer of certain functions to district councils that are currently exercised by central government Departments.
4. Initially, 11 local roads functions were identified as being suitable for transfer to local government. Detailed discussions between officials from the Department, the Department of the Environment and representatives of local government about the detail of the functions proposed to transfer ensued. During those meetings local government representatives proposed a number of changes to the functions identified for potential transfer.
5. In August 2009, a refined suite of public realm functions requested by local government were agreed. This would have seen the creation of powers enabling district councils to authorise local road race events; issue access permits to pedestrian zones and to enforce parking contraventions on roads and in off-street car parks.
6. The Department consulted on a Roads (Functions of District Councils) Bill between April and July 2010. However, the Bill was withdrawn from the legislative programme since the arrangements for introduction of the new council structure had been delayed and it would have been impractical to introduce the proposed arrangements in the Bill across the existing 26 district councils.
7. In April 2013 the Northern Ireland Executive reconsidered the position regarding the transfer of certain road related functions to the councils and concluded that district councils should become responsible for the future ownership, management, operation and enforcement of parking contraventions occurring within off-street parking places, excluding park and ride and park and share car parks for which the Department would remain responsible.

8. To achieve that vision all assets relating to the ownership, management and operation of off-street car parks would need to transfer to councils. That will be achieved through a Transfer Scheme provided for in the Local Government Bill.
9. In addition, legislative powers in relation to the provision, operation management and enforcement of off-street car parks would be required in order for councils to implement this vision..

## **OPTIONS CONSIDERED**

10. The Department considered that there were two options.
11. Option 1 – provide councils with an enforcement regime modelled on that contained within the Road Traffic Regulation (Northern Ireland) Order 1997. That would have given the councils powers of enforcement through a criminal process.
12. Option 2 – provide for councils to use a decriminalised enforcement procedure such as that provided for in the Traffic Management (Northern Ireland) Order 2005 and used by the Department’s traffic attendants. Discussions with representatives of district councils strongly favoured that option and the Department was asked to put the necessary arrangements in place.

## **OVERVIEW**

13. The Bill would, with effect from 1 April 2015, transfer to district councils, certain powers contained in the Road Traffic Regulation (Northern Ireland) Order 1997 relating to off-street car parks. It would also provide councils with powers under the Traffic Management (Northern Ireland) Order 2005 to employ traffic attendants and to enforce certain parking contraventions occurring within those off street parking places.

## **COMMENTARY ON CLAUSES**

The Bill contains only one clause. Subsection (1) of clause 1 provides that the functions presently exercised by the Department under Articles 10 to 14 and 25 to 27 of the Road Traffic Regulation (Northern Ireland) Order 1997 would transfer to the councils with effect from 1 April 2015.

Subsection (2) makes it clear that those functions do not include functions relating to park and ride or park and share parking places nor the making of regulations.

Subsection (3) of clause 1 provides that the functions presently exercised by the Department under Articles 3 to 28 of the Traffic Management (Northern Ireland) Order 2005 would become exercisable, from 1 April 2015, in relation to relevant contraventions occurring within off-street car parks within the district of a council to which those parking places have been transferred.

Subsection (4) defines relevant contraventions.

Subsection (5) makes it clear that functions relating to contraventions occurring in park and ride and park and share parking places and functions regarding the making of regulations will not become exercisable by the councils.

## **FINANCIAL EFFECTS OF THE BILL**

14. The general financial implications of the transfer of assets from Departments to councils are dealt with in the Department of the Environment's Local Government Bill. It is anticipated that the proposals contained in this Bill will be cost neutral at the point of transfer for both the Department and the new councils. A regulatory impact assessment is not therefore required.

## **HUMAN RIGHTS ISSUES**

15. The Department has considered the proposed legislative provisions in relation to Human Rights issues with the Human Rights Unit and has concluded that the proposals have no human rights impact.

## **EQUALITY IMPACT ASSESSMENT**

16. The Department has considered the proposed legislative provisions against the Section 75 criteria of the Northern Ireland Act 1998 and, in conjunction with the Equality Unit, and has screened out the requirement for an Equality Impact Assessment in relation to these policy and legislative proposals.

## **SUMMARY OF THE REGULATORY IMPACT ASSESSMENT**

17. The Department has considered the proposed legislative provisions against the criteria for regulatory impact and concluded that this is not required for these legislative proposals.

## **LEGISLATIVE COMPETENCE**

18. The member in charge of the Bill, Danny Kennedy MLA, had made the following statement under section 9 of the Northern Ireland Act 1998:

*"In my opinion the Off-street Parking (Functions of District Councils) Bill would be within the legislative competence of the Northern Ireland Assembly."*