



Northern Ireland
Assembly

Functioning of Government (Miscellaneous Provisions) Bill
Notice of Amendments tabled on
22 September 2020 for Consideration Stage

Clause 1, Page 1, Line 7

After '(2)' insert '(b)'

Mr Jim Allister

Clause 1, Page 1, Line 12

Leave out 'involvement or'

Mr Jim Allister

Clause 1, Page 1, Line 13

Before 'A minister' insert 'Subject to section 3A'

Mr Jim Allister

Clause 1, Page 1, Line 14

At end insert -

'(3A) In section 8 (Code for appointments), after subsection (1) insert the words:

“(2) Without prejudice to the generality of subsection (1), the code must provide that the appointing minister must -

- (a) create a job description and person specification for the post,
- (b) set out the requirements to be met by a successful applicant,
- (c) achieve a candidate pool from which the minister shall select on sustainable and lawful grounds, and

(d) complete and the department retain documentation associated with the above processes, including recording the minister’s reasons for the selection made.”

Mr Jim Allister

Clause 1, Page 2, Line 9

After ‘adviser’ insert ‘by reason of the holding of that post’

Mr Jim Allister

Clause 1, Page 2, Line 12

Leave out ‘him’ and insert ‘the special adviser’

Mr Jim Allister

Clause 2, Page 2, Line 18

Leave out subsection (2) and insert -

‘(2) In Article 3 (Selection on merit), in paragraph (4) for the words “three persons” substitute “two persons”.’

Mr Jim Allister

Clause 2, Page 2, Line 19

At end insert -

‘(3) The Civil Service Commissioners (Amendment) (Northern Ireland) Order in Council 2007 is repealed.’

Mr Jim Allister

Clause 4, Page 2, Line 33

Leave out subsection (3)

Mr Jim Allister

Clause 5, Page 3, Line 4

At end insert -

‘(1A) In Section 17(1)(a) after “Part” insert- “, provided the Commissioner is satisfied the complaint is not frivolous or vexatious or otherwise an abuse of the complaints process.”’

Mr Jim Allister

Clause 5, Page 3, Line 11

Leave out from ‘means’ to end of line 12 and insert ‘means Section 1 of the Ministerial Code as provided for by Section 28A of the Northern Ireland Act 1998.’

Mr Jim Allister

Clause 5, Page 3, Line 14

At end insert -

‘(6A) In Section 27(1) after “Assembly” insert “or minister”.’

Mr Jim Allister

Leave out clause 6 and insert -

‘Record of meetings

6. A civil servant, other than a special adviser, must make and the department must retain an accurate written record of every internal departmental meeting attended by a minister recording, in particular, those present, date and time, topics discussed, and every decision and action point.’

Mr Jim Allister

Clause 7

The Member listed below gives notice of his intention to oppose the question that clause 7 stand part of the Bill.

Mr Jim Allister

Leave out clause 8 and insert -

‘Presence of civil servants

8.—(1) A civil servant, other than a special adviser, must be present and take an accurate written record of every meeting held by a minister or special adviser with non-departmental personnel about official business; except for liaison with the minister’s political party.

(2) The department must retain the record made pursuant to subsection (1).’

Mr Jim Allister

New Clause

After clause 8 insert -

‘Record of being lobbied

8A.—(1) In the event of a minister or special adviser, other than as provided for in section 8, being lobbied in respect of official business, then, the minister or (as the case may be) special adviser must provide at the earliest opportunity a written record to the department of all such lobbying and the department must retain such records.

(2) In this section “being lobbied” means to receive personally a communication, either oral or written, on behalf of the person making the communication or another person or persons, relating to:

- (a) the development, adoption or modification of any proposal of the government to make or amend primary or subordinate legislation;
- (b) the development, adoption or modification of any other policy of the government;
- (c) the making, giving or issuing by the government of, or the taking of any other steps by the government in relation to,—
 - (i) any contract or other agreement,
 - (ii) any grant or other financial assistance, or
 - (iii) any licence or other authorisation; or
- (d) the exercise of any other function of the government.

(3) It does not matter whether the person to whom the communication is made, or the person making it, or both, are outside the United Kingdom when the communication is made.’

Mr Jim Allister

Leave out clause 9 and insert -

‘Use of official systems

9.—(1) A minister, special adviser or civil servant when communicating on official business by electronic means must not use personal accounts or anything other than devices issued by the department, systems used by the department and departmental email addresses.

(2) If out of necessity it is not possible to comply with the requirements of subsection (1) the minister or (as the case may be) special adviser or civil servant must within 48 hours, or as soon thereafter as reasonably practicable,

- (a) copy to the departmental system any written material generated during the use of non-departmental devices or systems; and
- (b) make an accurate record on the departmental system of any verbal communications relating to departmental matters.

(3) It shall be an offence for any minister, special adviser or civil servant to fail to comply with the requirements of subsection (2).

(4) In proceedings in respect of a charge against a person (“A”) of the offence under subsection (3), it is a defence for A to show that the course of behaviour was reasonable in the particular circumstances or was in the public interest.

(5) A person is taken to have shown the fact mentioned in subsection (4) if—

- (a) evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (4), and

- (b) the prosecution does not prove beyond reasonable doubt that the course of behaviour is not as described in subsection (4).
- (6) A person guilty of an offence under this section is liable on conviction
 - (a) on indictment, to imprisonment for a term not exceeding 2 years;
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.’

Mr Jim Allister

Clause 10, Page 4, Line 10

Leave out ‘21’ and insert ‘28’

Mr Jim Allister

Clause 10, Page 4, Line 12

Leave out ‘close’

Mr Jim Allister

Clause 10, Page 4, Line 13

Leave out ‘21’ and insert ‘28’

Mr Jim Allister

Leave out clause 11 and insert -

‘Offence of unauthorised disclosure

11.—(1) Without prejudice to the operation of the Official Secrets Acts 1911-1989 and save in the discharge of a statutory obligation or in the lawful pursuit of official duties, it shall be an offence for any minister, civil servant or special adviser to communicate, directly or indirectly, official information to another for the financial or other improper benefit of any person or third party.

(2) In proceedings in respect of a charge against a person (“A”) of the offence under subsection (1), it is a defence for A to show that the course of behaviour was reasonable in the particular circumstances or was in the public interest.

- (3) A person is taken to have shown the fact mentioned in subsection (2) if—
 - (a) evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (2), and
 - (b) the prosecution does not prove beyond reasonable doubt that the course of behaviour is not as described in subsection (2).
- (4) A person guilty of an offence under this section is liable on conviction
 - (a) on indictment, to imprisonment for a term not exceeding 2 years;
 - (b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.’

Mr Jim Allister

New Clause

After clause 11 insert -

‘Accountability to the Assembly: provision of information

11A.—(1) Ministers and their departments must provide to an Assembly committee such information as that committee may reasonably require in order to discharge its functions, being information which—

- (a) has been requested in writing; and
- (b) relates to the statutory functions exercisable by the minister or their department.’

Mr Jim Allister

Clause 12, Page 4, Line 30

Leave out from ‘relevant’ to ‘actions’ on line 31 and insert ‘judgements of the courts relevant to the functioning of government,’

Mr Jim Allister

Clause 14, Page 5, Line 10

At end insert -

“‘family member” has the same meaning as set out in Schedule 1(3) to the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011.’

Mr Jim Allister

Clause 14, Page 5, Line 10

At end insert -

“‘department” means a Northern Ireland department as set out in Schedule 1, Departments Act (Northern Ireland) 2016.’

Mr Jim Allister