



Northern Ireland  
Assembly

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**COMMITTEE  
FOR EMPLOYMENT  
AND LEARNING**

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**OFFICIAL REPORT  
(Hansard)**

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**Student Loans (Amendment) Bill**

15 September 2010

**NORTHERN IRELAND ASSEMBLY**

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**Members present for all or part of the proceedings:**

Mrs Dolores Kelly (Chairperson)  
Mr Jonathan Bell (Deputy Chairperson)  
Mr Sydney Anderson  
Mr Paul Butler  
Rev Dr Robert Coulter  
Mr Chris Lyttle  
Mrs Claire McGill  
Mr Pat Ramsey  
Ms Sue Ramsey  
Mr Peter Weir

**Witnesses:**

Angela Kelly ) Northern Ireland Assembly Legal Services

**The Chairperson (Mrs D Kelly):**

I welcome our legal adviser, Angela Kelly. I remind Committee members that the Bill is a technical Bill that seeks to close the loophole whereby student loan repayments can be included in individual voluntary arrangements (IVAs) but not bankruptcy proceedings.

I also remind members that the briefing is being recorded by Hansard, so I would be grateful if all electronic devices could be switched off.

The responses that the Department received to the consultation on the Bill were supportive, and the single response to the Committee's public notice on the Bill was positive. I invite Angela to take us through the briefing paper.

**Ms Angela Kelly (Northern Ireland Assembly Legal Services):**

Thank you. The briefing paper is somewhat detailed, so I propose to take a broad approach before addressing any particular issues.

The Student Loans (Amendment) Bill is a short, technical Bill that deals with the discrete issue of the inequality that currently exists between those debtors who enter into individual voluntary arrangements and those who proceed down the bankruptcy route. If one is made bankrupt, one's student loan cannot be included in the bankruptcy procedure, and one remains liable for it after one's discharge from bankruptcy. At present, if one enters into an individual voluntary arrangement, the student loan can be included and become part of that arrangement.

There are certain debts, in parity with a bankrupt's situation, that cannot be included in an individual voluntary arrangement: for example, money owed under Family Court proceedings or arising out of personal injury claims against the debtor; court fines; and secured credit. Student loans should fit into that list, as they do in a bankrupt's situation. There is disparity there at present.

The essential differences between an IVA and bankruptcy centre on the debtor's situation. One is not necessarily a better way to proceed than the other. One of the advantages of an IVA is that one has more control over the process. The proposal sets out the debtor's assets and liabilities, and what he proposes to distribute among all creditors, or those that can be included.

There is also less publicity with an IVA. Details would be published in the insolvency services list and there is a public register, but there is no publication in 'The Belfast Gazette' and no publicity in the 'Belfast Telegraph'. People often prefer an IVA for that reason.

The significant difference is that a debtor engaging in an IVA is not subject to the restrictions of a bankrupt, which are many and significant. Those include, for example, the inability to sit as a director. There are also restrictions around holding public office and obtaining credit in excess of £500. None of those restrictions would apply to an IVA. However, an IVA will work only if

there are working funds with which to pursue it. The debtor must have sufficient capital to be able to meet a percentage of his or her debts on an ongoing basis for up to three years, whereas a bankruptcy is discharged after one year. Although there are benefits, an IVA does not have the advantage of the clean sweep or closed book of bankruptcy.

I do not know whether members require any more detail on the procedure aspects.

**The Chairperson:**

Do members have any questions?

**The Committee Clerk:**

May I just mention that the students' union presidents from the University of Ulster and Queen's University are coming to the Committee meeting next week to give their views on the Student Loans (Amendment) Bill? We have not received any objections to the Bill, and my discussions with the students' union presidents suggest that they are not objecting to it either but just want to give the viewpoints of the universities and their students.

**The Chairperson:**

That will be very useful. Thank you.

**Mr Weir:**

We can discuss this with the students' unions presidents. The Committee Clerk indicated that they are not objecting to the Bill, but are they consultees?

**The Committee Clerk:**

Yes; the Department's consultation ran for the usual consultation period. Input was received from the National Union of Students and the Union of Students in Ireland, which was the single respondee to the Committee's public notice. They supported the idea of parity between bankruptcy and IVAs, as Angela Kelly outlined. They felt it a good idea that one should have no particular advantage over the other and that they should essentially do the same thing. They felt that people should not be able to drop the student loans into the IVAs, largely because of the salary level. Repayments on student loans occur only at a particular level of salary, and it was felt unfair that that offered protection for the person repaying.

**The Chairperson:**

We will hear more next week.

**Mr Butler:**

How many people have availed themselves of an IVA?

**The Committee Clerk:**

We can find that out from the Department. That is not something about which we are concerned.

**Mr Weir:**

From memory, I think that the argument was that the number was extremely minimal, and that IVAs were almost not being used in Northern Ireland. There was a concern that, as we moved into a tougher financial situation, more people would become bankrupt. The IVA could be seen as a loophole.

**Mr Butler:**

If people have availed themselves of an IVA, would there be implications if we bring in a piece of legislation that would exclude them?

**Ms A Kelly:**

The legislation will not be retrospective. Once someone has entered into an IVA, the agreement is registered with the courts.

**The Chairperson:**

We will ask the Department for an update on the number.

**The Committee Clerk:**

I think that it was 49, but I do not want to say that that is a definite figure; that is just my recollection. We will ask the Department to clarify that for us for next week.

**The Chairperson:**

Are members happy enough?

**Ms A Kelly:**

If one has already applied for bankruptcy, in which case the student loan will not be allowed to be included, people can at present apply for an IVA, and the student loan can come back out again. That is another strange little discrepancy that the Bill will address.

**The Chairperson:**

Thank you very much.