



Committee for the Environment

OFFICIAL REPORT (Hansard)

Shadow Arrangements and the draft Local Government (Transitional, Supplementary and Incidental Provisions and Modifications) Regulations (Northern Ireland) 2014:
Department of the Environment

19 May 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mrs Pam Cameron (Deputy Chairperson)

Mr Cathal Boylan

Mr Tom Elliott

Mr Alban Maginness

Mr Ian McCrea

Lord Morrow

Mr Peter Weir

Witnesses:

Ms Julie Broadway Department of the Environment

Ms Tracy Johnston Department of the Environment

Ms Linda MacHugh Department of the Environment

Mr Leo O'Reilly Department of the Environment

The Deputy Chairperson: The SL1 for the regulations was considered by the Committee last week by correspondence only, and no comments were received from Committee members by the Department. The Department is proceeding to lay the rule. The Examiner of Statutory Rules has not yet had an opportunity to comment on the rule. We welcome again Linda MacHugh, Julie Broadway, and Leo O'Reilly, and I welcome Tracy Johnston.

Ms Tracy Johnston (Department of the Environment): We received 20 responses to the consultation, which means that there were a number of comments. If the Committee is content, I will take you through the changes to the regulations that have been made as a result of the comments.

The Deputy Chairperson: That will be useful. Thank you.

Ms Johnston: There has been one change made to regulation 2, albeit not as a result of comments received to the consultation. Regulation 2(6) originally stated that, if a statutory transition committee failed to appoint a clerk, the clerk to the new council would be appointed by open competition and on merit. The Department is now aware that all statutory transition committees have appointed a clerk to each new council. Therefore, the provision has been amended to take out the reference to statutory transition committees. It is remaining in the regulations in case, owing to unforeseen circumstances, one of the clerks who have been appointed has to stand down or needs to be replaced. That is to provide that, if the new council appoints a new clerk during the shadow period, it will be done so on the same basis that the individual was appointed by the statutory transition committee.

Regulation 3 has not been changed as a result of the consultation.

Lord Morrow: It is very slow.

Ms Johnston: A number of responses on regulation 4 stated that there was a little bit of confusion between regulation 4, which makes provision for assistance from existing councils to new, and what I think was regulation 7, which makes provision for assistance from Northern Ireland Departments to new councils. Therefore, regulation 4, and what used to be regulation 7 but is now regulation 8 have been redrafted to take account of those comments. As a result, regulation 4 now deals exclusively with the provision of information and assistance by existing councils to new, but the actual content of the provision is not different from the policy intention of the original draft.

Regulation 5 provides for the application of the code of conduct to councillors of the 26 existing councils. The Local Government Act 2014 provides for its application to councillors of the 11 new councils. Again, there have been some technical amendments to that regulation but not as a result of the consultation, because no objections were received to the principle of applying the code of conduct to councillors of the existing councils. However, in order to make sure that existing councillors are guided by the new code of conduct, we had to provide for them to sign an amended declaration that they will abide by the new code.

Regulation 6 provides for the filling of positions of responsibility on the new councils. Again, it has not changed, other than to provide for the new councils to make appointments to the partnership panel. That was as a result of a comment made when we brought the draft regulations to the Committee. Another amendment has been made to allow the new councils to appoint councillors to policing and community safety partnerships (PCSPs) during the shadow period. That was made on the advice of the new chief executives, who advised that, in order for lay members to be appointed to PCSPs, councillors should form part of the appointment panel. Therefore, for the lay members to be in place for 1 April 2015, councillors have to be there beforehand so that they can participate in the selection process. As such, we have provided for that to happen.

A new regulation 7 has been inserted as a result of comments received during the consultation. That is to provide for the new councils to have mandatory standing orders in place from the date of their creation. That was in response to comments received that the 2014 Act did not provide for the process to be in place for new councils to appoint more than one committee at the same meeting. We got responses from two of the new councils that indicated that they would like to appoint more than one committee at their first meeting. Therefore, to provide the procedure for them to do so, we inserted a new schedule 3 to the regulations. It prescribes the process to be followed if more than one committee is to be appointed at the same meeting. It provides that no one party can hold all the seats on a committee and that the political make-up of each committee should broadly reflect the political make-up of the council. Another provision in schedule 3 allows for another standing order to be inserted, which specifies votes that must be taken by a qualified majority. Most of the qualified majority decisions are already prescribed in the 2014 Act. However, there are two that need to be provided for during the shadow period. The first is decisions that are called in on the grounds of disproportionate adverse impact under section 41(1)(b). Those are decisions subject to reconsideration because they have such an impact on one section of the inhabitants of the district. The second is for the suspension of a council's standing orders.

As I said, regulations 4 and 8 have been redrafted to separate the provision of information by existing councils and Northern Ireland Departments to new councils. The only other change to regulation 8 is that it adds the Northern Ireland Housing Executive. We received a number of responses that said that specific reference should be made to the Housing Executive, because it might have to provide information on functions referring to local government.

Regulations 9, 10 and 11 were not changed as a result of the consultation, but a new regulation 12 has been added to provide for a new council to sign off the statements of accounts of the statutory transition committees after they are wound up, 28 days after the election.

Schedule 1 has not been amended as a result of the consultation, but I should say that we received a number of comments objecting to the disapplication of section 111 of the 2014 Act, which requires the Department to consult local government bodies on statutory guidance issued under that section. Local government felt that statutory guidance that was issued to it should be subject to consultation. Our response is that the provision has been disapplied for the transitional period only in unforeseen circumstances in which we might have to issue statutory guidance at short notice or for something unforeseen that has arisen. I believe that the Committee received a list of the guidance that we plan

to issue to the new councils during the shadow period. All the guidance that is currently scheduled to issue will be subject to consultation. The provision has been disapplied only in case guidance needs to be issued at short notice.

One provision has been added to schedule 2. It provides that existing councils may not make appointments to the partnership panel. Only new councils may do so.

Those are all the changes.

Mr Weir: I want clarity on a couple of points. First, on nominations to committees, I see that the regulations state that, more or less as far as is practicable, they should be proportionate across the board. Is there any formula in either the guidance or the legislation?

Ms Johnston: The formula in schedule 2 to the 2014 Act applies. Therefore, the default method is the quota greatest remainder. If a qualified majority vote is taken, it could be the Droop quota used.

Mr Weir: For the sake of argument, that would apply to the decision to appoint, say, four committees of a certain number.

For positions of responsibility on the new councils, obviously there is the election of a presiding councillor and deputy presiding councillor. Presumably, if one appointment from an outside body will be to the partnership panel, and depending on what is put in standing orders for the chairs of interim committees, the schedule to the Act will again apply and the default position will be d'Hondt for each of those.

I presume that the intention is that they will be run more or less in one batch or, alternatively, the list will be worked down. For example, if, at the first meeting, you elected a presiding councillor and a deputy presiding councillor and, a month or two down the line, you decided who would go on the partnership panel and what committees you would have, it would then kick in, because those nominations had already been made. It would not restart.

Ms Broadway: No, it would just run on.

Mr Weir: It would run on.

Ms Broadway: Yes, it would. We are planning to issue guidance on d'Hondt, Sainte-Laguë and single transferable vote (STV).

Ms MacHugh: This day last week, we had a lengthy meeting with the new chief executives to run through all of that so that they were clear on how the first few meetings of the new councils will run.

Mr Weir: My final point is from a practical point of view. In each case, that would be done by the party's nominating officer or a letter to the council could be produced saying that Councillor Bloggs will do it on the nominating officer's behalf. Obviously, that is how it would happen on that front.

The Deputy Chairperson: No other members have questions. Thank you very much.