



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Legal Aid and Coroners' Courts Bill: Formal
Clause-by-clause Consideration

11 June 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Paul Givan (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Sydney Anderson
Mr Tom Elliott
Mr Seán Lynch
Mr Alban Maginness
Ms Rosaleen McCorley
Mr Patsy McGlone

The Chairperson: We now move to the formal clause-by-clause consideration of the Bill. A paper outlining the Committee's position on each of the clauses and the Hansard report of the Committee's deliberations at last week's meeting were circulated to members yesterday and copies are in your information packs.

As the Attorney General's proposed amendment is not currently part of the Bill, it will not be covered in the formal clause-by-clause consideration. However, the Committee deliberations on the proposed amendment will be reflected in the report on the Bill. If members are clear, I will work through each clause and schedule. I will then put formally the Question on each. Where there are proposed amendments, I will put the Question on the proposed amendment first and then the clause.

Question, That the Committee is content with clause 1, put and agreed to.

Clause 2 (Designation of Director of Legal Aid Casework)

The Chairperson: Some members expressed the view that clause 2(1) could be better drafted and they may wish to consider this further at a later stage. The views will be reflected in the Committee report.

Question, That the Committee is content with clause 2, put and agreed to.

Clause 3 (Exercise of functions by Director)

The Chairperson: Some members expressed reservations about the framework in place to ensure the independence of the director regarding decisions in individual cases, whether policy constraints could impact negatively on the exercise of that independence because a category of cases could be excluded from consideration by the director and whether proper safeguards are in place. Some members indicated that they may wish to consider this further at a later stage.

Other members were satisfied that any direction issued by the Department could not override the provisions of the relevant primary or secondary legislation and noted that the requirement to follow directions and guidance issued by the Minister already exists. The different views of the Committee will be reflected in the Committee report.

Question, That the Committee is content with clause 3, put and agreed to.

Clause 4 (Delegation of functions of Director)

The Chairperson: Some comments were made regarding the make-up of the appeals panels, which are covered under schedule 2. No other issues were raised by members in relation to clause 4.

Question, That the Committee is content with clause 4, put and agreed to.

Question, That the Committee is content with clause 5, put and agreed to.

Clause 6 (Amendment of law relating to legal aid, civil legal services and criminal defence services)

The Chairperson: No issues were raised by members in relation to clause 6, but the Committee agreed to support two amendments to schedule 2, which we will come to in due course.

Question, That the Committee is content with clause 6, put and agreed to.

Question, That the Committee is content with clause 7, put and agreed to.

Question, That the Committee is content with clause 8, put and agreed to.

Question, That the Committee is content with clause 9, put and agreed to.

Question, That the Committee is content with clause 10, put and agreed to.

Question, That the Committee is content with clause 11, put and agreed to.

Question, That the Committee is content with clause 12, put and agreed to.

Question, That the Committee is content with clause 13, put and agreed to.

Question, That the Committee is content with schedule 1, put and agreed to.

Schedule 2 (Amendments)

The Chairperson: One member expressed some reservations about the proposed make-up of the appeals panel and the intention to include laypersons as well as legally qualified persons. It was noted that the detail of the appeals mechanism, including the make-up and procedures of the panels, will be set out in subordinate legislation, which will be scrutinised by the Committee and the Assembly, with the first set of regulations being subject to the affirmative resolution procedure and subsequent regulations subject to the negative resolution procedure. The Committee discussed the advice provided by the Assembly Examiner of Statutory Rules indicating that the regulation-making power is of some great significance to the Bill and therefore should be subject to draft affirmative procedure on the first and subsequent occasions. The Committee agreed with that assessment and indicated that we would support an amendment to make that change.

The Committee also noted the advice provided by the Examiner of Statutory Rules that the rules in respect of the assignment of solicitor and counsel where a criminal aid certificate has been granted should also be subject to the draft affirmative procedure on the first and subsequent occasions given the significance of the powers. The Committee again agreed with that assessment and indicated that we would support an amendment to make that change.

The Department has now written indicating that, in light of the Committee's decision, it will instruct Legislative Counsel to draft the necessary amendments. A copy of the letter has been circulated to members. That saves the Committee from having to draft the amendments, but they will do what we wanted.

Is the Committee content with the proposed amendments to be brought forward by the Department of Justice to ensure that all rules made under the provisions in respect of the new article 36A, 36B and 38A provisions in the 1981 Order and article 20A provision in the 2003 Order in respect of appeal panels should be subject to the draft affirmative resolution procedure on the first and subsequent occasions?

Members indicated assent.

Question, That the Committee is content with schedule 2, subject to the proposed amendments, put and agreed to.

Mr Elliott: Subject to us being agreed to them.

Question, That the Committee is content with schedule 3, put and agreed to.

The Chairperson: As this is the end of the clause-by-clause consideration of the Bill, the Committee now needs to consider the long title of the Bill.

Question, That the Committee is content with the long title, put and agreed to.

The Chairperson: OK; thank you. The draft Committee report on the Bill will be prepared for consideration and agreement at next week's meeting.