

OFFICIAL EXECUTIVE



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Our ref: AGY/132/2014

25 November 2014

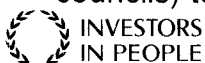
Alex

DRAFT REGENERATION BILL

The Committee may be aware that the Executive recently agreed to the introduction of the Regeneration Bill to the Assembly. I have written to the Speaker's Office seeking agreement to introduce the Bill on 8 December 2014. I am now taking this opportunity to forward copies of the Bill and its accompanying Explanatory and Financial Memorandum "In confidence" to the Committee for its information.

Committee members will already be familiar with the policy context for the Regeneration Bill, which is a part of the Reform of Local Government, following a briefing by officials earlier this year, on 5 June. The Bill is largely the same with one notable change. Previously, the Bill was known as the Regeneration and Housing Bill. However, since taking up office, I have had some useful discussions with a number of Ministerial colleagues and I have taken their concerns on board. Concerns were raised regarding the proposed transfer of the Housing functions from the NIHE and, having discussed these concerns with Executive colleagues, I decided to remove the relevant provisions from the Bill. I recently brought a paper on a proposed new regulatory regime for HMOs to the Executive which was agreed, and in the Housing Strategy 2012-17, there is a commitment to review the statutory fitness standard across all tenures over the lifetime of the Housing Strategy Action Plan. I have therefore concluded that it is more appropriate to consider this work separately from the Bill and to allow it to complete before any decisions are taken on the future of these functions.

I have also added a new Clause 1(4) to ensure that any proposed use of the powers in the Social Need (Northern Ireland) Order 1986 (which will be extended to the new councils) to provide Housing must be approved by the Department. It is important to



note that, even with the same powers as in the 1986 Order, councils will not be able to build social housing.

I have also secured Executive approval to commence this legislation, and therefore the transfer to councils, one year later than originally planned. The short time available between now and the original 1 April 2015 transfer date presented significant challenges for both the new councils and my Department. However, the new transfer date of 1 April 2016 will provide an opportunity to plan for as smooth a transition as possible.

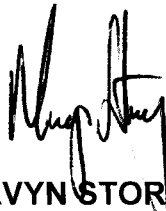
The Explanatory and Financial Memorandum has also been expanded to provide more clarity on the meaning and impact of the amended Bill.

The Committee will, of course, have the opportunity to undertake full scrutiny of the Bill during the Committee Stage.

Annex A contains the draft Bill and at **Annex B** is the draft Explanatory and Financial Memorandum which accompanies the Bill to provide clarification on various points.

My officials will be happy to brief the Committee at its sitting on the 8 January 2015.

Yours sincerely



MERVYN STOREY MLA
Minister for Social Development

Regeneration Bill

[30/10/2014 11:5:27]

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Regeneration

A

BILL

TO

Confer functions on district councils in relation to regeneration; to amend the Social Need (Northern Ireland) Order 1986 and Part 7 of the Planning (Northern Ireland) Order 1991 in relation to the functions of the Department for Social Development; and for connected purposes.

BE IT ENACTED by being passed by the Northern Ireland Assembly and assented to by Her Majesty as follows:

PART 1

POWERS IN RELATION TO SOCIAL NEED

Powers of council to address social need

Financial assistance to address social need [j1]

5 1.—(1) A council may provide financial assistance to any person doing, or intending to do, anything falling within subsection (2) which benefits one or more areas of social need in its district.

(2) Financial assistance may be provided under this section for—

- 10 (a) the promotion, development or regeneration of commercial, industrial or other economic activity,
(b) the improvement of the environment,
(c) the provision of housing,
(d) the provision of social or community facilities,
(e) the refurbishment or restructuring of buildings,

15 or for anything not falling within paragraphs (a) to (e) which the council considers will benefit the district.

(3) Financial assistance under this section may include—

- (a) grants;
(b) loans;

- (c) guarantees;
- (d) the taking of any interest in property or in a body corporate.

(4) Financial assistance under this section for the provision of housing requires the approval of the Department.

5 **Conditions attaching to financial assistance under section 1 [j2]**

2.—(1) In giving financial assistance under section 1, a council may impose such conditions as it thinks fit, including conditions for repayment in specified circumstances.

10 (2) Any person who without reasonable excuse fails to comply with any condition imposed under subsection (1) requiring that person to inform the council of any event whereby financial assistance provided to that person under section 1 becomes repayable in whole or in part is guilty of an offence and liable—

- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
- (b) on conviction on indictment, to a fine.

15 (3) Subsection (4) applies for the purpose of enabling the council—

- (a) to determine whether any condition subject to which financial assistance is provided under section 1 is satisfied or is being complied with; or
- (b) whether the financial assistance has become repayable in whole or in part in accordance with any such condition.

20 (4) The council may by notice require any person who has received financial assistance under section 1, and any person acting on behalf of that person, to give to the council such information, or to produce for examination by the council such books, records or other documents, as may be specified in the notice.

(5) Subject to subsection (6), a notice under subsection (4) may require—

- 25
- (a) the information to which it relates to be given within such time as may be specified in the notice, and
 - (b) the books, records or other documents to which it relates to be produced at such time and place as may be so specified.

30 (6) The time specified in a notice under subsection (4) for giving any information or producing any document shall not be earlier than the end of the period of 28 days beginning with the service of the notice.

(7) Any person who in purported compliance with a notice under subsection (4) knowingly or recklessly makes any statement or produces any document which is false in a material particular is guilty of an offence and liable—

- 35
- (a) on summary conviction, to a fine not exceeding the statutory maximum; or
 - (b) on conviction on indictment, to a fine or to imprisonment for a term not exceeding 2 years or to both.

40 (8) Any person who without reasonable excuse fails to comply with a notice under subsection (4) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(9) Any conditions for repayment imposed under subsection (1) shall, if the conditions so provide, be a statutory charge and in the event of any financial assistance under section 1 becoming repayable in circumstances specified in the

conditions, the amount of that assistance (as assessed in accordance with the conditions) shall be a charge on any property so specified.

(10) Accordingly, in Schedule 11 to the Land Registration Act (Northern Ireland) 1970 (matters required to be registered in the Statutory Charges Register) in paragraph 40 after “Article 4(1) of the Social Need (Northern Ireland) Order 1986” insert “or section 2 of the Regeneration Act (Northern Ireland) 2015”.

Power to carry out works for the improvement of the environment [j3]

3.—(1) A council may carry out works for the improvement of the environment which the council considers will benefit one or more areas of social need in its district.

(2) In the exercise of its powers under this section a council may, with the consent of the Department for Regional Development, carry out works involving the placing of any structure in a road, but shall not so exercise those powers as—

- (a) to obstruct or prevent the passage of vehicles or of the public on foot along the road;
- (b) to obstruct or prevent normal access to premises adjoining the road; or
- (c) to prevent any person from having access to any works of that person under, in, on, over, along or across the road.

(3) A council may, with the consent of the Department for Regional Development, sell, let or otherwise dispose of any structure placed by it in a road under this section to any other person.

Power of Department to address social need

Power of Department to provide financial assistance [j4]

4.—(1) Article 3 of the Social Need (Northern Ireland) Order 1986 (power of Department to provide financial assistance) is amended as follows.

(2) For paragraph (1) substitute—

“(1) The Department may provide financial assistance to any person doing or intending to do anything falling within paragraph (2) which benefits one or more areas of social need.”.

(3) In paragraph (2) for “the district” substitute “an area of social need”.

PART 2 DEVELOPMENT POWERS AND OTHER POWERS FOR PLANNING PURPOSES

Development and other powers of councils

Development schemes of councils [j5]

5.—(1) Where a council considers it expedient that any area in its district should be developed, redeveloped or improved as a whole the council may prepare a development scheme for the area.

(2) Where the Department considers that—

- (a) it is expedient that any area in the district of a council should be developed, redeveloped or improved as a whole,
- (b) the development, redevelopment or improvement will be of significance to the whole or a substantial part of Northern Ireland, and
- 5 (c) it is not appropriate or expedient for the development, redevelopment or improvement to be carried out under Part 7 of the Planning Order,
- the Department may direct the council to prepare a development scheme for the area.
- (3) A development scheme under this section shall—
- 10 (a) define, by reference to a map, the area of the scheme; and
- (b) indicate in general terms the manner in which it is intended that the area should be laid out and the land therein used.
- (4) In preparing a development scheme a council must have regard to—
- (a) the regional development strategy; and
- 15 (b) the council's current community plan (within the meaning of section 78(1) of the Local Government Act (Northern Ireland) 2014.)
- (5) A development scheme prepared by a council has no effect unless adopted by the council in accordance with section 6.
- (6) It is the duty of a council to comply with any direction given to it under
- 20 subsection (2).

Adoption of development schemes by councils [j6]

- 6.—(1) Where it has prepared a development scheme, a council shall submit the scheme to the Department and—
- 25 (a) shall consider any comments notified to the council by the Department or any other Northern Ireland department within the period of 28 days from the date on which the scheme is submitted or such longer period as the Department may direct; and
- (b) may, if it thinks fit, amend the scheme.
- (2) The council shall then publish in two successive weeks in one or more
- 30 newspapers circulating in the locality to which the scheme relates a notice—
- (a) describing the area to which the scheme relates and referring to the preparation of the scheme;
- (b) specifying the place at which copies of the scheme may be inspected at reasonable times; and
- 35 (c) stating the time (not being less than 28 days from the last of the publications of the notice) during which objections to the scheme may be sent to the council.
- (3) If—
- (a) no objections are made to a development scheme, or
- 40 (b) all objections to a development scheme are withdrawn,
- the council may, subject to subsection (5), by order adopt the scheme with or without amendment.

(4) If objections made to a development scheme are not withdrawn the council shall, unless it considers them to be solely of a frivolous or vexatious nature—

- (a) cause a public local inquiry to be held by the planning appeals commission, and
- 5 (b) consider any objections not withdrawn and the report of that commission, and may, subject to subsection (5), thereafter by order adopt the scheme with or without amendments.

(5) A council shall not adopt a scheme under subsection (3) or (4) unless the scheme has been submitted to, and approved by, the Department.

10 (6) A council may at any time prepare amendments to so much of an adopted development scheme as relates to the manner in which the area of the development scheme is to be laid out and the land therein used.

(7) Section 5(4) and (5) and subsections (1) to (5) above apply in relation to such amendments to a scheme as they apply in relation to the original scheme.

15 **Acquisition of land by councils for planning purposes [j7]**

7.—(1) A council may, by agreement or compulsorily, acquire any land in its district where it is satisfied—

- (a) that the land is required in connection with a development scheme;
- 20 (b) that it is expedient in the public interest that the land should be held together with land so required;
- (c) that the land is required for development or redevelopment, or both, as a whole for the purpose of providing for the relocation of population or industry or the replacement of open space in the course of the redevelopment or improvement of another area in its district as a whole; or
- 25 (d) that it is expedient to acquire the land for a purpose which it is necessary to achieve in the interests of the proper planning of an area in which the land is situated.

(2) Where the council acquires a lesser estate than a fee simple in any land under section 196 of the Planning Act (Northern Ireland) 2011, the council may by agreement or compulsorily acquire such estates in the land as it considers expedient in the public interest.

(3) A council shall not acquire any estate in Crown land under this section unless—

- 35 (a) it is an estate which is for the time being held otherwise than by or on behalf of the Crown; and
- (b) the appropriate authority consents to the acquisition;

and “appropriate authority” and “Crown land” are to be construed in accordance with section 212 of the Planning Act (Northern Ireland) 2011.

40 (4) Proceedings for the acquisition of land in connection with a development scheme may be taken concurrently (so far as practicable) with proceedings required by section 6 to be taken in connection with the adoption of the development scheme; but a vesting order vesting any such land in the council shall not be made until the development scheme has been adopted.

(5) In determining whether to make a vesting order on the application of a council, the Department may disregard any objection to the proposed order which, in the opinion of the Department, amounts in substance to an objection to the provisions of the local development plan defining the proposed use of that or any other land.

(6) In this Part any reference to the acquisition or appropriation of land for planning purposes is a reference to—

(a) its acquisition under this section; or

(b) its appropriation under section 96(6) of the Local Government Act (Northern Ireland 1972 for any purpose mentioned in subsection (1).

(7) In this section, in relation to any area—

“re-location of population or industry” means the rendering available elsewhere than in that area (whether in an existing community or a community to be newly established) of accommodation for residential purposes or for the carrying on of business or other activities, together with all appropriate public services, facilities for public worship, recreation and amenity, and other requirements, being accommodation to be rendered available for persons or undertakings who are living or carrying on business or other activities in that area and whose continued or resumed location in that area would be inconsistent with the proper planning of that area;

“replacement of open space” means the rendering of land available for use as an open space, or otherwise in an undeveloped state, in substitution for land in that area which is so used.

Disposal of land held by councils for planning purposes [j8]

8.—(1) Where any land acquired or appropriated by a council for planning purposes is for the time being held by that council for those purposes, the council may dispose of the land to such person as may appear to it to be expedient in order to secure—

(a) the best use of that or other land and any buildings or works which have been, or are to be, erected, constructed or carried out on thereon, whether by the council or by any other person, or

(b) the erection, construction or carrying out on the land of any buildings or works appearing to the council to be needed for the proper planning of the area in which the land is situated.

(2) On the termination of any tenancy of any premises let by a council under this section, possession of the premises may (without prejudice to any other method of recovery) be recovered by the council in a summary manner under Articles 67 to 74 of the Magistrates’ Courts (Northern Ireland) Order 1981 whatever may be the rent or term of the tenancy.

Development of land held by councils for planning purposes [j9]

9.—(1) A council may erect or construct any building or carry out any work on any land to which this section applies.

(2) A council may enter into an agreement with any person for the development of any land to which this section applies.

(3) A council may maintain, repair and generally manage any buildings or works on land to which this section applies.

5 (4) This section applies to any land which—

(a) has been acquired or appropriated by the council for planning purposes; and

(b) is for the time being held by it for those purposes.

(5) The Department may by regulations make provision—

10 (a) requiring prescribed details of a proposed exercise by a council of its powers under subsection (1) or (2) to be given to the Department in prescribed cases; and

(b) where such notice is required to be given in any case, for prohibiting the exercise by a council of its powers under those subsections in relation to that case until the expiration of such period from the giving of the notice as is prescribed.

(6) In subsection (5) “prescribed” means prescribed by regulations under that subsection.

(7) Regulations under subsection (5) are subject to negative resolution.

20 **Powers of council before acquisition of land for planning purposes [j10]**

10. Where a council proposes to acquire land compulsorily under section 7, it may, at any time after the date of the publication of the notice mentioned in paragraph 2(a) of Schedule 6 to the Local Government Act (Northern Ireland) 1972 in relation to that land—

25 (a) enter into an agreement with any person for securing the disposal of the land (in accordance with section 8) after that land has been acquired for planning purposes;

(b) exercise the power under subsection (2) of section 9 in relation to the land as if the land were land to which that section applies.

30 **Extinguishment by council of right of way over land held for planning purposes [j11]**

35 **11.—**(1) Where any land acquired or appropriated by a council for planning purposes is for the time being held by that council for those purposes, the council may by order extinguish any public right of way over the land where it is satisfied that the extinguishment of the right of way is necessary for the proper development of the land.

(2) Before making an order under this section, the council shall publish in at least one newspaper circulating in the relevant area a notice—

(a) stating the general effect of the order;

40 (b) specifying a place in the relevant area where a copy of the draft order and of any relevant map or plan may be inspected by any person at all reasonable hours during a period of 28 days from the date of publication of the notice; and

(c) stating that, within that period, any person may by notice to the council object to the making of the order.

5 (3) Not later than the date on which that notice is so published, the council shall serve a copy of the notice, together with a copy of the draft order and of any relevant map or plan, on—

(a) any statutory undertaker having any cables, mains, pipes or wires laid along, across, under or over any land over which a right of way is to be extinguished under the order; and

10 (b) the operator of an electronic communications code network for the purposes of which any electronic communications apparatus is kept installed along, across, under or over any such land.

(4) The council may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.

15 (5) After considering any objections to the order which are not withdrawn and, where a public local inquiry is held, the report of the planning appeals commission, the council may make the order either without modification or subject to such modifications as it thinks fit.

(6) Where the council makes an order under this section the council shall publish, in the manner specified in subsection (2), a notice—

20 (a) stating that the order has been made; and

(b) naming a place where a copy of the order may be seen at all reasonable hours;

and subsection (3) shall have effect in relation to any such notice as it has effect in relation to a notice under subsection (2).

25 (7) In this section “the relevant area”, in relation to an order, means the area in which any land to which the order relates is situated.

(8) Where—

(a) an order is made under this section, and

30 (b) immediately before the date on which the order became operative there was, under, in, on, over, along or across the right of way any electronic communications apparatus kept installed for the purposes of an electronic communications code network,

35 the operator of that network shall have the same powers in respect of that apparatus as if the order had not become operative, but the council shall be entitled to require the alteration of the apparatus.

(9) If the operator of an electronic communications code network—

(a) removes any electronic communications apparatus in circumstances in which subsection (8) applies, and

(b) serves a notice on the council notifying the council of the removal,

40 the operator shall be entitled to recover from the council the expense of providing, in substitution for the apparatus and any electronic communications apparatus connected therewith which is rendered useless in consequence of the removal, any electronic communications apparatus in such other place as the operator may require.

(10) Paragraph 1(2) of the electronic communications code (alteration of apparatus to include moving, removal or replacement of apparatus) applies for the purposes of subsections (8) and (9) as it applies for the purpose of that code.

5 (11) Paragraph 21 of the electronic communications code (restriction on removal of apparatus) applies in relation to any entitlement conferred by this section to require the alteration, moving or replacement of any electronic communications apparatus as it applies in relation to an entitlement to require the removal of any such apparatus.

10 (12) Expressions used in this section which are defined in paragraph 1(1) of Schedule 17 to the Communications Act 2003 have the meanings given there.

Power of council to require information as to estates in land [j12]

15 **12.**—(1) The power in subsection (2) is exercisable by a council for the purpose of enabling the council to make an order or issue or serve a notice or other document which it is authorised or required to make, issue or serve by any provision of this Chapter.

(2) The council may by notice in writing require—

(a) the occupier of any premises, and

(b) any person who, either directly or indirectly, receives rent in respect of any premises,

20 to give in writing, within the period mentioned in subsection (3), such information as to the matters mentioned in subsection (4) as may be specified in the notice.

(3) That period is the period of 21 days from the date on which the notice is served, or such longer period as may be specified in the notice or as the council may allow.

25 (4) The matters referred to in subsection (1) are—

(a) the nature of the estate in the premises of the person on whom the notice is served;

(b) the name and address of any other person known to that person as having an estate in the premises.

30 (5) Any person who, without reasonable excuse, fails to comply with a notice served on that person under subsection (1) is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

35 (6) Any person who having been required by a notice under subsection (1) to give any information knowingly makes any misstatement in giving that information is guilty of an offence and liable—

(a) on summary conviction, to a fine not exceeding the statutory maximum;

(b) on conviction on indictment, to imprisonment for a term not exceeding 2 years or a fine, or both.

Development schemes made by the Department

40 **Development schemes made by the Department [j13]**

13. For Article 85 of the Planning Order substitute—

“Development schemes

85.—(1) Where the Department considers that—

- (a) it is expedient that any area should be developed, redeveloped, or improved as a whole,
- 5 (b) the development, redevelopment or improvement will be of significance to the whole or a substantial part of Northern Ireland, and
- (c) it is not appropriate or expedient for the development, redevelopment or improvement to be carried out under Part 2 of the Regeneration Act (Northern Ireland) 2015,

10 the Department may, after consulting the appropriate district council, prepare a development scheme for the area.

(2) A development scheme shall—

- (a) define, by reference to a map, the area of the scheme; and
- 15 (b) indicate in general terms the manner in which it is intended that the area should be laid out and the land therein used.”.

Interpretation

Interpretation of this Part [j19]

20 **14.—**(1) In this Part “the Planning Order” means the Planning (Northern Ireland) Order 1991.

(2) In this Part the following expressions have the same meanings as in Part 7 of the Planning Order—

- “building”;
- “buildings or works”;
- 25 “development”;
- “erection” (in relation to buildings);
- “regional development strategy”;
- “road”;
- “statutory undertaker”.

30 (3) In this Part any reference to the acquisition or appropriation of land for planning purposes is to be construed in accordance with section 7(6).

PART 3

LAGANSIDE

Transfer to council of certain functions relating to Lagside [j20]

35 **15.—**(1) The Lagside Development (Northern Ireland) Order 1989 shall cease to have effect.

(2) Schedule 1 confers on the council for the district of Belfast certain powers formerly exercisable by the Department under that Order in relation to part of the River Lagan.

Regeneration
PART 4
GENERAL AND SUPPLEMENTARY
General

Surveys, studies, etc.[j23]

5 **16.** A council may carry out, or give financial assistance towards the carrying out, of such surveys, studies, investigations and research as it considers appropriate in connection with the exercise of its functions under this Act.

Guidance [j24]

10 **17.—**(1) The Department may, after consulting councils, issue guidance as to the exercise by councils of their functions under this Act.

(2) In exercising any function under this Act a council shall have regard to any guidance issued under this section in relation to the exercise of that function.

Supplementary

15 **Powers to make orders under the Local Government Act in connection with this Act [j31]**

18. In section 124 of the Local Government Act (Northern Ireland) 2014 (power to make provision in connection with reform of local government) in subsection (2)(a) and (b) for “2015” substitute “2016”.

Regulations and orders [j32]

20 **19.** Regulations and orders made by the Department under this Act may contain such incidental, supplementary, transitional and savings provisions as appear to the Department to be necessary or expedient.

Interpretation [j33]

20. In this Act—

25 “council” means a district council;

“the Department” means the Department for Social Development;

“statutory provision” has the meaning given by section 1(f) of the Interpretation Act (Northern Ireland) 1954.

Minor and consequential amendments and repeals [j34]

30 **21.—**(1) The statutory provisions set out in Schedule 2 have effect subject to the minor and consequential amendments specified in that Schedule.

(2) The statutory provisions set out in Schedule 3 are repealed to the extent specified in the second column of that Schedule.

Commencement [j35]

35 **22.—**(1) Except as provided by subsection (2), this Act comes into operation on 1st April 2016.

(2) The following provisions come into operation on the day after Royal Assent—

- (c) sections 18 to 20;
- (d) this section; and
- 5 (e) section 23.

Short title [j36]

23. This Act may be cited as the Regeneration Act (Northern Ireland) 2015.

Regeneration

SCHEDULES

SCHEDULE 1

Section 15.

POWERS OF COUNCIL IN RELATION TO THE RIVER LAGAN [S1]

5 1.—(1) In this Schedule—

“the harbour limits” means the limits for the time being of the jurisdiction of the Belfast Harbour Commissioners under the Belfast Harbour Acts and Orders 1847 to 2002;

10 “the river” means that part of the River Lagan between the Stranmillis Weir and a line five metres down-stream of the seaward extremity of, and parallel to, the Lagan Bridge;

“the council” means the council for the district of Belfast.

Power to execute works in relation to the river

15 2.—(1) The council may execute such works in, on, across, over, alongside or adjacent to the river as it considers appropriate for the purposes of—

- (a) improving the quality of water in the river;
- (b) improving the immediate environment of the river;
- (c) promoting the recreational use of the river; or
- (d) facilitating access to the river.

20 (2) In particular the council may—

- (a) construct embankments, quays and footpaths alongside, or adjacent to, the river;
- (b) dredge, reclaim land from, and alter or divert the channel of, the river;
- (c) operate, maintain, repair, alter, extend or remove any works executed under this Schedule and any existing works; and
- 25 (d) provide such buildings, amenities, machinery, plant, apparatus and appliances as it considers appropriate in connection with any works executed under this Schedule and any existing works.

30 (3) In sub-paragraph (2) “existing works” means works in, on, across, over, alongside or adjacent to the river which were executed at any time before the coming into operation of this Schedule under the Laganside Development (Northern Ireland) Order 1989 or any other statutory provision.

Construction of bridges, weirs, locks and barrages

35 3.—(1) The council may construct a bridge over, or weir, lock or barrage across, the river.

(2) Before executing any works under this paragraph the council must take into consideration the reasonable requirements of navigation on the river.

(3) The reference in this paragraph to a bridge include reference to a road, footway or railway over the bridge and to the approaches of any road, footway or railway to the bridge.

Byelaws as to use of river and certain adjacent land

- 5 4.—(1) The council may make byelaws—
- (a) regulating the use of the river by vessels;
 - (b) requiring vessels using the river to be licensed for that purpose by the council;
 - (c) regulating fishing in the river;
 - 10 (d) requiring persons fishing in the river to obtain a permit for that purpose from the council;
 - (e) regulating the grant, renewal and revocation of licences under paragraph (b) and permits under paragraph (d), the conditions subject to which such licences and permits are to be granted and prescribing the fees payable in
 - 15 respect of the grant or renewal of such licences or permits;
 - (f) regulating the construction, condition, safety and control of vessels which may use the river and the equipment to be carried on such vessels;
 - (g) regulating the movement of vessels, and the use of lights, on the river;
 - (h) for the levying by the council of charges in respect of the use of the river
 - 20 or any service or facility provided by the council on the river or on land adjacent to the river;
 - (i) for the removal by the council of vessels or objects from the river in such circumstances as may be specified in the byelaws, the storage and disposal by the council of vessels or objects so removed and the recovery by the
 - 25 council of the costs of removal, storage and disposal;
 - (j) regulating the conduct of persons on the river or on land adjacent to the river and vested in the council;
 - (k) prohibiting the erection of any structure in the river or on land mentioned in paragraph (j) without the consent of the council;
 - 30 (l) prohibiting the carrying on of any commercial activity on the river or on any land mentioned in paragraph (j) without the consent of the council.
- (2) Byelaws under this paragraph shall not apply in relation to—
- (a) any part of the river within the harbour limits; or
 - (b) any land adjacent to any such part of the river.
- 35 (3) In their application to byelaws under this paragraph sections 91 to 94 of the Local Government Act (Northern Ireland) 1972 apply as if for any reference to the Ministry concerned there were substituted a reference to the Department and the Department of Agriculture and Rural Development acting jointly.
- (4) The powers to secure the observance of byelaws made under this Schedule
- 40 which are conferred on an authorised officer of the council under section 93 of the Local Government Act (Northern Ireland) 1972 include power—
- (a) to board and inspect any vessel on the river; and
 - (b) to require any person suspected of contravening a byelaw to furnish his name and address to the officer.

(5) Section 94 of the Public Health Acts Amendment Act 1907 (licensing powers of district council in relation to pleasure vessels and persons in charge thereof) does not apply in relation to any vessel using the river.

Approval of Department of Agriculture and Rural Development

5 5.—(1) The council shall not execute any works under paragraph 2 unless those works have been approved by the Department of Agriculture and Rural Development.

(2) That approval may be given subject to such terms and conditions as that Department thinks fit.

10 *Consultation with the Belfast Harbour Commissioners*

6.—(1) It is the duty of the council before—

(a) executing any works under this Schedule within the harbour limits; or

(b) exercising any power conferred by this Schedule within the harbour limits,
15 to consult with the Belfast Harbour Commissioners and to take into account any representations made to the council by the Commissioners so as to ensure that the execution of those works or the exercise of those powers causes the minimum interference to the property of the Commissioners or to the exercise by the Commissioners of their functions.

20 (2) Sections 8 to 14 of the Belfast Port and Harbour Conservancy Act 1852 (control of works within the harbour limits) does not apply to the council or to works executed under this Schedule.

Temporary interference with river

7. The council may, so far as necessary for the purpose of or in connection with the execution of any works under this Schedule—

25 (a) temporarily alter or interfere with the river and construct or place in the river all such temporary works as it considers necessary or expedient;

(b) temporarily occupy and use the river;

(c) temporarily restrict or otherwise interfere with easements, fishing rights, water rights, navigation rights or other similar rights.

30 *Extinguishment of certain public rights*

8.—(1) If the Department considers it necessary or desirable to do so in connection with any works executed under this Schedule, the Department may, on application to it by the council, make an order extinguishing—

35 (a) any public rights over or in relation to such part of the foreshore associated with the river as is specified in the order;

(b) any public rights of navigation over such part of the river as is specified in the order.

40 (2) Article 133(1) and (4) of, and Schedule 8 to, the Roads (Northern Ireland) Order 1993 apply to an order under sub-paragraph (1) as they apply to an order under Article 6 of that Order.

Regeneration

SCHEDULE 2

Section 21.

MINOR AND CONSEQUENTIAL AMENDMENTS [S4]

The Planning Blight (Compensation) (Northern Ireland) Order 1981 (NI 16)

- 5 1.—(1) Article 3 is amended as follows.
- (2) In paragraph (1)(j) after “Article 86 of the Planning Order” insert “or section 6 of the Regeneration Act (Northern Ireland) 2015”.
- (3) After paragraph (3) insert—
- 10 “(3A) In paragraph (1)(j) the reference to a development scheme adopted under section 6 of the Regeneration Act (Northern Ireland) 2015 includes a reference to—
- (a) a development scheme notice of which has been published under section 6(2) of that Act;
- 15 (b) amendments to that scheme notice of which have been published by virtue of section 6(7) of that Act.”.
- (4) In paragraph (4) for “or (3)” substitute “, (3) or (3A)”.

The Planning (Northern Ireland) Order 1991 (NI 11)

- 20 2.—(1) In Article 87(8) for “appropriate” substitute “expedient in the public interest”.
- (2) In Article 87 at the end add—
- “ (11) In this Article “relocation of population or industry” and “replacement of open space” have the same meanings as in section 7 of the Regeneration Act (Northern Ireland) 2015.”.
- (3) Omit Article 88.

25 *The Planning Act (Northern Ireland) 2011 (c. 25)*

3. In section 19(1)(c) (exclusion of certain representations) at the end add “or sections 5 and 6 of the Regeneration Act (Northern Ireland) 2015”.

SCHEDULE 3

Section 21.

30 REPEALS [S5]

Short Title	Extent of Repeal
The Laganside Development (Northern Ireland) Order 1989 (NI 2)	The whole Order.
The Planning (Northern Ireland) Order 1991 (NI 1)	Article 88.

The Planning Act (Northern Ireland) 2011 (c. 25)
In Schedule 6, paragraph 53.

REGENERATION BILL

EXPLANATORY AND FINANCIAL MEMORANDUM

INTRODUCTION

1. This Explanatory and Financial Memorandum has been prepared by the Department for Social Development (“the Department”) 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 or Schedule does not seem to require an explanation or comment, none is given.

BACKGROUND AND POLICY OBJECTIVES

3. The purpose of the Bill is to confer certain regeneration and community development powers on, and transfer of certain functions relating to Laganside, to the new district councils.
4. This Bill contributes to the reform of local government and is part of the suite of legislation, the main piece of which is the Local Government Act (Northern Ireland) 2014, within which the new councils will operate from 1 April 2015. The delivery of the powers and functions conferred on a council by this Bill will be taken forward in the context of a council’s statutory community planning duty, including, in relation to improving the social well-being of the district, promoting equality of opportunity in accordance with section 75 of the Northern Ireland Act 1998 and, without prejudice to this, having regard to the desirability of promoting good relations as provided for in the Local Government Act (Northern Ireland) 2014. The delivery of the powers and functions will also be subject to the framework for the protection of the interests of minorities provided by Parts 3 and 4 (sharing position of responsibility and membership of committees across the political parties and independents represented on a council) and Part 7 (in relation to decision-making) of the Local Government Act (Northern Ireland) 2014 and any associated regulations.

CONSULTATION

5. Public consultation on the proposals under the Review of Public Administration (as the Reform of Local Government was then known) to transfer functions from the Department for Social Development to district councils took place from 1 March 2010 to 26 April 2010 and the proposals were widely supported.

OPTIONS CONSIDERED

6. The Executive decided to implement a radical reform of local government including reducing the number of councils from 26 to 11, introducing a new corporate governance regime and transferring a range of new powers and responsibilities from central government to local government. A new duty to bring forward community plans for their areas was also included.
7. A key element of the reform package related to DSD's responsibilities for urban regeneration and community development, and NIHE functions in respect of the regulation of housing unfitness in the social rented sector and houses in multiple occupation.
8. It was necessary to consider the need for primary legislation and the extent to which the Department should be prescriptive in terms of councils' discharge of their new responsibilities. In the course of preparing the final draft Bill, the Department also reviewed whether the package of responsibilities to be transferred remained appropriate.
9. The Department looked at the option of transferring these responsibilities to councils without the need for primary legislation but concluded that councils needed specific powers to carry out most of the work being transferred.
10. The Department also considered the option of being prescriptive in legislation by setting out where and when and how councils could use their new powers relating to urban regeneration and community development but concluded that it was best that councils were left to determine their own priorities and actions for their areas. Councils will however, have to have regard for any guidance issued by the Department.
11. It was also decided that housing functions should not be included in this legislation.

COMMENTARY ON CLAUSES

12. The Bill has four Parts, totalling twenty-three (23) clauses, and three Schedules. A commentary on the provisions follows. Comments are not given where the wording is self-explanatory:

PART 1: POWERS IN RELATION TO SOCIAL NEED

Clause 1: Financial assistance to address social need

This Clause makes provision for councils to provide financial assistance to third parties which it considers will benefit (directly or indirectly) areas of social need in its district. A list of examples of the types of activities which a council may fund is given but this list is not prescriptive and councils will have wide discretion about what they decide to fund. Financial assistance may take the form of grants, loans, guarantees or the taking of any interest in property or in a body corporate. In recognition of the Department's and the Northern Ireland Housing Executive's wider housing functions, any financial assistance a council wishes to provide for the provision of housing will require prior approval of the Department. This Clause will not empower councils to build social housing.

Clause 2: Conditions attaching to financial assistance under section 1

This Clause will enable a council to attach such conditions as it thinks fit to the provision of financial assistance and failure to comply with certain conditions may be an offence. For the purposes of determining whether a condition has been complied with or whether financial assistance has become repayable a council may by notice require a person to give information or produce books, records or other documents. Failure to comply with such a notice or providing false information in response to such a notice will be an offence.

Clause 3: Power to carry out works for the improvement of the environment

This Clause allows a council to carry out works for the improvement of the environment which it considers will benefit an area of social need in its district. Certain works require the consent of the Department for Regional Development.

Clause 4: Power of Department to provide financial assistance

This Clause amends Article 3 of the Social Need (Northern Ireland) Order 1986 by removing reference to districts in defining the focus of the Department's financial assistance. This is consistent with the Reform of Local Government in which the Department will adopt a more regional focus and work in partnership with the new

Councils who will take the decisions on local projects needed to bring about real improvements for their people.

PART 2: DEVELOPMENT POWERS AND OTHER POWERS FOR PLANNING PURPOSES

Clause 5: Development schemes of councils

This Clause allows a council to prepare a development scheme for an area in its district which it considers should be developed, redeveloped or improved as a whole. Development schemes must be defined by a map and set out in general terms the intentions for land use and layout.

The Department will be able to direct a council to prepare a development scheme where it considers that the regeneration of an area is required and likely to be of significance to the whole or a substantial part of Northern Ireland and the council is best placed to take this forward. This provision is related to clause 9 and the ability of the Department to make regulations requiring councils to provide information in relation to certain types of development proposals.

Clause 6: Adoption of development schemes by councils

This Clause specifies the procedure for consulting on development schemes and considering objections. Councils will be required to consult with the Department for Social Development in the preparation of development schemes and will also have to publicly advertise their draft schemes. As part of this consultation the Department will consider any scheme with a housing element in light of the Northern Ireland Housing Executive's wider housing functions.

Any relevant objections to a draft scheme which cannot be resolved must be considered by the planning appeals commission at public local inquiry. The Department will have the final decision on a development scheme as it cannot be formally adopted by a council without the approval of the Department.

Clause 7: Acquisition of land by councils for planning purposes

A council will be able to acquire land, by agreement or compulsorily, for certain planning purposes. For compulsorily purchases, the procedure for acquisition of land by vesting order is set out in Schedule 6 of the Local Government Act (Northern Ireland) 1972. Councils must apply to the Department to make a vesting order if they wish to compulsorily acquire land.

Councils are required to publicly advertise their intention to vest and consider and resolve any objections received. If the objections cannot be resolved the Department

will cause a local inquiry to be held by the planning appeals commission and will consider their report before deciding on whether to make the vesting order.

Proceedings for the acquisition of land in connection with a development scheme and proceedings in connection with the adoption of a development scheme can be taken concurrently up to a point but a vesting order cannot be made until the development scheme has been adopted.

Clause 8: Disposal of land held by councils for planning purposes

A council will be able to dispose of land which it holds for planning purposes in order to secure the best use of land or buildings or to secure the erection or construction of buildings or carrying out of works which the council considers are needed for the proper planning of the area in which the land is situated.

Clause 9: Development of land held by councils for planning purposes

A council will be able to develop land which it holds for planning purposes by erecting or constructing buildings or carrying out works or entering into agreements with any person for the development of land. A council will also be able to maintain, repair and generally manage buildings or works on land which is being held for development purposes.

The Department will have the power to make regulations which would: require councils to provide the Department with specific information about their plans to develop land in particular circumstances, and, enable the Department to delay the council from using its development powers in those circumstances for a specified period of time. The detail of any such regulations will be developed and consulted upon separately. The purpose of such regulations will be to ensure that the Department is kept informed of any proposed development which is likely to be of significance to the whole or a substantial part of Northern Ireland. It is intended that such regulations would be used to inform the Department's decision about whether to direct a council to prepare a development scheme under clause 5.

Clause 10: Powers of council before acquisition of land for planning purposes

A council will be able to enter into agreements for the development or disposal of land which it intends to acquire compulsorily, at any time after it has published notice of the application for a vesting order.

Clause 11: Extinguishment by council of right of way

A council will be able to extinguish by order public right of way over land which it holds for planning purposes if it considers that this is necessary for the proper development of the land. A council will have to publicise its intentions and serve notice

on any affected statutory undertakers and electronic communications operators, for example NIE or Northern Ireland Water. Councils may cause a public local inquiry to be held by the planning appeals commission to hear objections to the proposed order.

Sub-sections (7)–(11) contain a number of safeguards for operators of electronic communications networks in the event of an extinguishment order being made.

Clause 12: Power of council to require information as to estates in land

A council will be able to issue a notice requiring the occupier of any premises, or a person receiving rent for any premises, to provide certain information to enable the council to make an order or issue or serve notice. Failure to comply with such a notice or providing false information in response to such a notice will be an offence.

Clause 13: Development schemes made by the Department

This Clause amends Article 85 of the Planning (Northern Ireland) Order 1991 by restricting the ability of the Department to make development schemes. In order for the Department to make a development scheme, it must be satisfied that the development, redevelopment or improvement of an area will be of significance to the whole or a substantial part of Northern Ireland and that the relevant district council is not best placed to carry this out.

Clause 14: Interpretation of this Part

This Clause defines a number of the terms used in PART 2 of the Bill.

PART 3: LAGANSIDE

Clause 15: Transfer to council of certain functions in relation to Lagan side

This Clause provides for the repeal of the Lagan side Development (Northern Ireland) Order 1989 (“the Lagan side Order”) and Schedule 1 sets out the powers which the Council for the district of Belfast will be able to exercise in relation to part of the River Lagan. These powers will enable the Council to safeguard the legacy of the work done by the Lagan side Corporation and include: the power to execute works to facilitate access to the river or promote recreational use; power to construct bridges and weirs (subject to all necessary permissions); power to make byelaws regulating e.g. fishing or the use of the river by vessels.

PART 4: GENERAL AND SUPPLEMENTARY

Clause 16: Surveys, studies, etc.

A council will be able to conduct or fund studies, investigations or research related to the exercise of its functions under Part 1 of the Bill e.g. social need in its district; development or redevelopment of its area etc.

Clause 17: Guidance

Following consultation with councils, the Department will be able to issue guidance in relation to regeneration. Councils shall have regard to any guidance issued by the Department.

Clause 18: Powers to make orders under the Local Government Act in connection with this Act

This Clause provides an amendment to the Local Government Act (Northern Ireland) 2014 which will allow the Department to make a scheme for the transfer of designated assets and liabilities from the Department to the new Councils.

Clause 19: Regulations and orders

This Clause details the Assembly controls which will apply to regulations and orders under the Bill.

Clause 20: Interpretation

This Clause provides definitions of terms used in the Bill.

Clause 21: Minor and consequential amendments and repeals

This Clause provides for the amendments set out in Schedule 2 and the repeals set out in Schedule 3 to have effect.

Clause 22: Commencement

This Clause provides that Clauses 1 to 17 and 21 come into operation on 1 April 2016.

Clause 23: Short title

This Clause provides that the Act shall be known as the Regeneration Act (Northern Ireland) 2015.

FINANCIAL EFFECTS OF THE BILL

13. The budget for urban regeneration, community development and Laganside will transfer from the Department to councils in 2015. To effect the transfer, it is intended to make a 'one-off' payment to councils via the rating system.

HUMAN RIGHTS ISSUES

14. The provisions of the Bill are compatible with the European Convention on Human Rights.

EQUALITY IMPACT ASSESSMENT

15. Under the terms of Section 75 of the Northern Ireland Act 1998, the Department carried out screening for equality impact and is satisfied that the proposed legislation will not lead to discriminatory or negative differential impact on any of the Section 75 groups. A copy of the screening form can be viewed on the Department's website www.dsdni.gov.uk.

LEGISLATIVE COMPETENCE

16. The Minister for Social Development has made the following statement under Section 9 of the Northern Ireland Act 1998:

"In my view the Regeneration Bill would be within the legislative competence of the Northern Ireland Assembly."