



Northern Ireland
Assembly

Committee for Finance

OFFICIAL REPORT (Hansard)

Functioning of Government (Miscellaneous
Provisions) Bill: Formal Clause-by-clause
Consideration

14 October 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Dr Steve Aiken (Chairperson)
Mr Paul Frew (Deputy Chairperson)
Mr Jim Allister
Mr Pat Catney
Ms Jemma Dolan
Mr Philip McGuigan
Mr Maolíosa McHugh
Mr Matthew O'Toole
Mr Jim Wells

The Chairperson (Dr Aiken): Ladies and gentlemen, we are now moving on the next item on the agenda, which is the formal clause-by-clause consideration of the Functioning of Government (Miscellaneous Provisions) Bill. I want to inform Members that the session is being recorded by Hansard. I remind members that the formal clause-by-clause stage is an essential part of the Committee's duties and is needed for the preparation of the Committee's report. I advise members that the Committee will proceed through the clauses, and I will put the Questions formally. I remind members that, during formal clause-by-clause consideration, deliberations or discussions on clauses have now concluded. I inform members that, where there are amendments, the Question on the amendment will be put first, and the Question on each amendment that introduces a new clause to the Bill will be put at the relevant point. Please bear with me.

Clause 1 (Amendment of the Civil Service (Special Advisers) Act (Northern Ireland) 2013) The Bill's sponsor has proposed one technical amendment to clause 1(2). Is the Committee content with the amendment proposed by the Bill's sponsor to clause 1(2)? Agreed?

Mr McGuigan: I am not content.

The Chairperson (Dr Aiken): Sorry? You need to speak up.

Mr McGuigan: I am not content.

Mr McHugh: Are these the amendments to the clause, or the clause?

The Chairperson (Dr Aiken): The amendments.

Mr McHugh: In our case, we do not really have to vote on the amendment, because we actually are voting against the clause itself. It is immaterial whether we vote on the amendment or not. Is that correct?

The Committee Clerk: Chair, do you want to put the Question again?

The Chairperson (Dr Aiken): Yes. Is the Committee content with the amendment proposed by the Bill's sponsor to clause 1(2)?

Members indicated assent.

The Chairperson (Dr Aiken): Two amendments have been proposed by the Bill's sponsor to clause 1(3) to retain the principle that a Minister should be responsible for the conduct of their special adviser. The Bill's sponsor has proposed one further amendment at page 1, line 14 to reinsert a previous process for special adviser appointments which was contained in the previous code of appointments but removed from the revised code.

I will put the first Question. Is the Committee content with the amendment proposed by the Bill's sponsor to clause 1(3) at page 1, line 12?

Members indicated assent.

The Chairperson (Dr Aiken): Is the Committee content with the amendment proposed by the Bill's sponsor to clause 1(3) at page 1, line 13?

Members indicated assent.

The Chairperson (Dr Aiken): Is the Committee content with the amendment proposed by the Bill's sponsor to clause 1(3) at page 1, line 14?

Members indicated assent.

The Chairperson (Dr Aiken): We will move on to clause 1(4). As there are no proposed amendments to this subsection, it will be considered as part of clause 1 overall.

There are no proposed amendments to clause 1(5), so it will be considered as part of clause 1 overall.

I advise members that the Bill's sponsor has proposed an amendment to clause 1(6) at page 2, line 9 to make it clear that the subsection applies specifically to special advisers. The Bill's sponsor has also proposed a technical amendment at page 2, line 12.

I will put the Question. Is the Committee content with the proposed amendments to clause 1(6)?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Clause 2 (Amendment of the Civil Service Commissioners (Northern Ireland) Order 1999)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor has proposed two amendments to clause 2 to change the approach to achieving the objective of reducing the number of special advisers in the Executive Office from eight to four. The Bill's sponsor has proposed an amendment at page 2, line 18 to change the wording of the Bill so that the First Minister and deputy

First Minister may appoint two special advisers each. That number currently stands at three each and the proposal in the Bill, as drafted, was for one each, with one special adviser for each of the junior Ministers. The Bill's sponsor has also proposed an amendment at page 2, line 19 to remove the facility for junior Ministers to appoint special advisers.

I inform members that there was a higher level of consensus in the Committee on the amendment that applies to junior Ministers than there was on the amendment that applies to the First Minister and deputy First Minister. It is, therefore, suggested that the Committee should consider the amendment to remove the facility for junior Ministers to appoint special advisers before considering the amendment on the number of special advisers overall. Are members content with that approach?

Members indicated assent.

The Chairperson (Dr Aiken): I will put the Question. Is the Committee content with the amendment proposed by the Bill's sponsor to clause 2 at page 2, line 19?

Members indicated assent.

The Chairperson (Dr Aiken): Is the Committee content with the amendment proposed by the Bill sponsor to clause 2, page 2, line 18?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 4; Noes 3; Abstentions 2.

AYES

Dr Aiken, Mr Allister, Mr Frew, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

ABSTENTIONS

Mr Catney, Mr O'Toole.

Question accordingly agreed to.

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

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Clause 4 (Special Advisers in the Executive Office)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor is proposing one technical amendment to clause 4. Is the Committee content with the amendment to clause 4 proposed by the Bill's sponsor?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendment.

The Committee divided: Ayes 4; Noes 3; Abstentions 2.

AYES

Dr Aiken, Mr Allister, Mr Frew, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

ABSTENTIONS

Mr Catney, Mr O'Toole.

Question accordingly agreed to.

Clause 5 (Amendment of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011.)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor is proposing three amendments to clause 5 as follows: page 3, line 4, to provide protection for MLAs and Ministers against vexatious complaints; page 3, line 11, to reduce provisions in the Bill in relation to the ministerial code; page 3, line 14, to add Ministers to the ambit of the Commissioner for Standards.

Is the Committee content with the amendments proposed by the Bill sponsor to clause 5?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Clause 6 (Records of meetings)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor is proposing one amendment to clause 6 to reduce the burden of what must be recorded. Is the Committee content with the proposed amendment to clause 6?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendment.

The Committee divided: Ayes 4; Noes 3; Abstentions 2.

AYES

Dr Aiken, Mr Allister, Mr Frew, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

ABSTENTIONS

Mr Catney, Mr O'Toole.

Question accordingly agreed to.

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

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Clause 8 (Presence of civil servants)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor is proposing one amendment to clause 8 to adjust the wording of the clause to make it more compatible with terms used elsewhere in the Bill. Is the Committee content with the amendment proposed by the Bill sponsor to clause 8?

Members indicated assent.

Mr Wells: Was that one against, or three?

Mr McHugh: That was just the amendment.

The Chairperson (Dr Aiken): Yes, that was just the amendment. We are doing the clause now.

Question put, That the Committee is content with the clause, subject to the proposed amendment.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

The Chairperson (Dr Aiken): Ah, Maolíosa. Well done.

New Clause

The Chairperson (Dr Aiken): Is the Committee content to note new clause 8A?

Mr McGuigan: Are you proposing that we note clause 8A?

The Chairperson (Dr Aiken): I did not say that. I asked whether the Committee is content to note clause 8A, yes.

Mr O'Toole: So the vote is on whether we are content to note, rather than —?

The Chairperson (Dr Aiken): Yes.

Mr McGuigan: Can I ask, for clarification —.

The Chairperson (Dr Aiken): We did not formally consider the evidence for clause 8A.

Mr McGuigan: So voting against noting it does what?

Mr Catney: That we have noted it?

The Chairperson (Dr Aiken): That you have noted it.

The Clerk Of Bills: It is simply that it is put, so that the Committee can just —. If you note an amendment or you are not taking a view for or against — that is simply because, as the Chair pointed out, the due evidence was not received as it was not part of the Bill —.

Mr McGuigan: So whether we note it or take no action is primarily irrelevant?

The Chairperson (Dr Aiken): But it is recorded that you voted against noting it, if you so wish.

Mr McGuigan: Fair enough.

The Chairperson (Dr Aiken): Are we content?

Mr Catney: Have we taken that vote?

The Committee Clerk: Was there a formal vote?

The Chairperson (Dr Aiken): Is the Committee content to note new clause 8A?

Question put, That the Committee is content with the new clause.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Clause 9 (Use of official systems)

The Chairperson (Dr Aiken): The Bill's sponsor is proposing one amendment to clause 9 to change the focus from the use of non-official systems per se to the failure to record the use of non-official systems within a reasonable time period, and to introduce reasonable behaviour and public interest defence. Is the Committee content with the amendment to clause 9 proposed by the Bill sponsor?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendment.

The Committee divided: Ayes 4; Noes 5.

AYES

Dr Aiken, Mr Allister, Mr Frew, Mr Wells.

NOES

Mr Catney, Ms Dolan, Mr McGuigan, Mr McHugh, Mr O'Toole.

Question accordingly negatived.

Mr McHugh: What was that vote?

Mr Frew: Clause 9.

Mr McHugh: What was the total of that vote?

The Chairperson (Dr Aiken): 5-4.

Mr McHugh: 5-4.

The Chairperson (Dr Aiken): But remember, this is a process whereby we are saying that we have voted on this for Consideration Stage.

Mr Allister: I think he asked what was the result.

The Chairperson (Dr Aiken): All right, sorry; 5-4.

Clause 10 (Register of interests)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor is proposing two amendments to clause 10 to align it with the relevant code of conduct provisions. The sponsor is also proposing one further amendment to clause 10 to include a definition of family members.

Is the Committee content with the amendments to clause 10 proposed by the Bill's sponsor?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Clause 11 (Offence of unauthorised disclosure)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor is proposing one amendment to clause 11 to simplify the language, to protect FOI obligations and internal government communications, to introduce reasonable behaviour and public interest defence, and to introduce a maximum sentence of two years rather than five years as proposed in the Bill as drafted.

Is the Committee content with the amendment to clause 11 proposed by the Bill sponsor?

Question put, That the Committee is content with the proposed amendment.

Ayes 4; Noes 5.

AYES

Dr Aiken, Mr Allister, Mr Frew, Mr Wells.

NOES

Mr Catney, Ms Dolan, Mr McGuigan, Mr McHugh, Mr O'Toole.

Question accordingly negated.

Question put, That the Committee is content with the clause, subject to the proposed amendment.

The Committee divided: Ayes 4; Noes 5.

AYES

Dr Aiken, Mr Allister, Mr Frew, Mr Wells.

NOES

Mr Catney, Ms Dolan, Mr McGuigan, Mr McHugh, Mr O'Toole.

Question accordingly negated.

The Clerk Of Bills: Can I just intervene? If there are more members against the clause as amended, do you want to do the clause as drafted for that particular one, if the Committee has a different view on it? Five members were not content with the amendment.

The Chairperson (Dr Aiken): I will ask whether the Committee is content with clause 11 as drafted.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 2; Noes 5; Abstentions 2.

AYES

Mr Allister, Mr Wells.

NOES

Mr Catney, Ms Dolan, Mr McGuigan, Mr McHugh, Mr O'Toole.

ABSTENTIONS

Dr Aiken, Mr Frew.

Question accordingly negated.

The Chairperson (Dr Aiken): Claire, does that clarify the point?

The Clerk Of Bills: Yes. I noticed that the number of noes was greater for the amendments to clauses 9 and 11.

The Committee Clerk: If there was a similar situation with clause 9, you may want to go back and revisit it as drafted.

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

The Committee divided: Ayes 3; Noes 5; Abstentions 1.

AYES

Dr Aiken, Mr Allister, Mr Wells.

NOES

Mr Catney, Ms Dolan, Mr McGuigan, Mr McHugh, Mr O'Toole.

ABSTENTIONS

Mr Frew.

Question accordingly negated.

Clause 12 (Biennial report)

The Chairperson (Dr Aiken): I advise members that the Bill's sponsor is proposing one technical amendment to clause 12. Is the Committee content with the sponsor's proposed amendment to clause 12?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendment.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Mr Catney: Chair, have you noted new clause 11A?

The Chairperson (Dr Aiken): That will be done at the end.

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

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Clause 14 (Interpretation)

The Chairperson (Dr Aiken): I advise members that the sponsor is proposing an amendment to clause 14 to provide a definition of "family member". The Bill's sponsor is proposing a further amendment to clause 14 to provide a definition of "department". Is the Committee content with the Bill sponsor's proposed amendments to clause 14?

Members indicated assent.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Question put, That the Committee is content with clause 15.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

Mr Wells: How can you vote against a title? That seems daft. It is either a title or it is not.

The Chairperson (Dr Aiken): Thank you for your remarks. They are duly noted, Mr Wells, the honourable Member for South Down.

Question put, That the Committee is content with the schedule.

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

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

The Committee divided: Ayes 6; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Catney, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Mr Wells: Surely not. *[Laughter.]*

Question accordingly agreed to.

New Clause

The Committee Clerk: Sorry, Chair. New clause 11A should have been at the end there, but it seems to have been omitted from the Chair's brief.

Question put, That the Committee is content with the new clause.

The Committee divided: Ayes 5; Noes 3.

AYES

Dr Aiken, Mr Allister, Mr Frew, Mr O'Toole, Mr Wells.

NOES

Ms Dolan, Mr McGuigan, Mr McHugh.

Question accordingly agreed to.

The Chairperson (Dr Aiken): Claire, before I bring the session to an end, have we done what we are supposed to have done?

The Clerk Of Bills: Yes.

The Chairperson (Dr Aiken): Thank you very much indeed, members. Claire, thank you very much indeed for your forbearance and support. I thank the Committee for speeding the Bill through its passage.