



COMMITTEE FOR FINANCE

MINUTES OF PROCEEDINGS

WEDNESDAY 14 OCTOBER 2020

Senate Chamber, Parliament Buildings, Belfast

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

Apologies:

In Attendance: Mr Jim McManus (Assembly Clerk)
Mr Phil Pateman (Assistant Assembly Clerk)
Ms Kate McCullough (Assistant Assembly Clerk)
Mr Neil Sedgewick (Clerical Supervisor)
Ms Heather Graham (Clerical Officer)
Ms Claire McCanny (Assembly Clerk, Bill Office) (Agenda item 4 and 5 only)

The meeting commenced at 14.03pm in public session

5. Functioning of Government (Miscellaneous Provisions) Bill - Clause-by-Clause Procedure

The Committee considered the advice from Claire McCanny, Assembly Clerk, Bill Office on its formal obligation and key procedural points.

The meeting moved into Public Session at 15.08pm

6. Functioning of Government (Miscellaneous Provisions) Bill – Formal Clause-by-Clause Consideration

The Committee commenced its formal clause by clause consideration of the Functioning of Government (Miscellaneous Provisions) Bill.

The Committee noted that amendments tabled by the Bill Sponsor on 22 September 2020, to Clause 8 and 11 have been withdrawn and that it had no previous opportunity to consider.

The Committee noted Notice of Amendments tabled on 13 October 2020 for Consideration Stage for Clause 8, 11 and 14 and that it has had no previous opportunity to consider.

The oral evidence session was reported by Hansard.

Clause 1 - Amendment of the Civil Service (Special Advisers) Act (Northern Ireland) 2013

The Committee considered Clause 1 and amendments proposed by the Bill sponsor:

*Clause 1, Page 1, Line 7
After '(2)' insert '(b)'*

*Clause 1, Page 1, Line 12
Leave out 'involvement or'*

*Clause 1, Page 1, Line 13
Before 'A minister' insert 'Subject to section 3A'*

*Clause 1, Page 1, Line 14
At end insert '(3A) In section 8 (Code for appointments), after subsection (1) insert the words: "(2) Without prejudice to the generality of subsection (1), the code must*

provide that the appointing minister must - (a) create a job description and person specification for the post, (b) set out the requirements to be met by a successful applicant, (c) achieve a candidate pool from which the minister shall select on sustainable and lawful grounds, and (d) complete and the department retain documentation associated with the above processes, including recording the minister's reasons for the selection made.”

Clause 1, Page 2, Line 9

After 'adviser' insert 'by reason of the holding of that post'

Clause 1, Page 2, Line 12

Leave out 'him' and insert 'the special adviser'

Agreed: The Committee is content with the amendments proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 1, subject to the amendments proposed by the Bill sponsor.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

NOES

Maoliosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 1, subject to the amendments proposed by the Bill sponsor.

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

The Committee considered Clause 2 and amendments proposed by the Bill sponsor:

Clause 2, Page 2, Line 18

Leave out subsection (2) and insert '(2) In Article 3 (Selection on merit), in paragraph (4) for the words "three persons" substitute "two persons".'

Clause 2, Page 2, Line 19

At end insert '(3) The Civil Service Commissioners (Amendment) (Northern Ireland) Order in Council 2007 is repealed.'

Agreed: The Committee is content with the amendments proposed by the Bill Sponsor.

The question was put that the Committee is content with Clause 2, subject to the amendments proposed by the Bill sponsor.

The Committee divided: Ayes 4; Noes 3; Abstain 2

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA

NOES

Maolíosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Pat Catney MLA
Matthew O'Toole MLA

Agreed: The Committee is content with Clause 2, subject to the amendments proposed by the Bill sponsor

Clause 3: Repeal of the Civil Service Commissioners (Amendment) Order (Northern Ireland) 2016

The Committee considered Clause 3 as drafted.

The question was put that the Committee is content with Clause 3.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

NOES

Maolíosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 3 as drafted.

Clause 4: Special Advisers in The Executive Office

The Committee considered Clause 4 and an amendment proposed by the Bill sponsor:

*Clause 4, Page 2, Line 33
Leave out subsection (3)*

Agreed: The Committee is content with the amendment proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 4, subject to the amendments proposed by the Bill sponsor.

The Committee divided: Ayes 4; Noes 3; Abstain 2

AYES

Dr Steve Aiken MLA

Paul Frew MLA

Jim Wells MLA

Jim Allister MLA

NOES

Maolíosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

ABSTAIN

Pat Catney MLA

Matthew O'Toole MLA

Agreed: The Committee is content with Clause 4, subject to the amendment proposed by the Bill sponsor.

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

The Committee considered Clause 5 and amendments proposed by the Bill sponsor:

Clause 5, Page 3, Line 4

At end insert '(1A) In Section 17(1)(a) after "Part" insert- ", provided the Commissioner is satisfied the complaint is not frivolous or vexatious or otherwise an abuse of the complaints process.'"

Clause 5, Page 3, Line 11

Leave out from 'means' to end of line 12 and insert 'means Section 1 of the Ministerial Code as provided for by Section 28A of the Northern Ireland Act 1998.'

Clause 5, Page 3, Line 14

At end insert '(6A) In Section 27(1) after "Assembly" insert "or minister".'

Agreed: The Committee is content with the amendments proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 5, subject to the amendments proposed by the Bill sponsor.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA

Paul Frew MLA

Jim Wells MLA

NOES

Maolíosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

ABSTAIN

Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

Agreed: The Committee is content with Clause 5, subject to the amendments proposed by the Bill sponsor.

Clause 6: Records of Meetings

The Committee considered Clause 6 and an amendment proposed by the Bill sponsor:

Leave out clause 6 and insert

'Record of meetings 6. A civil servant, other than a special adviser, must make and the department must retain an accurate written record of every internal departmental meeting attended by a minister recording, in particular, those present, date and time, topics discussed, and every decision and action point.'

Agreed: The Committee agreed that it is content with the amendment proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 6, subject to the amendments proposed by the Bill sponsor.

The Committee divided: Ayes 4; Noes 3; Abstain 2

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA

NOES

Maolíosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Pat Catney MLA
Matthew O'Toole MLA

Agreed: The Committee is content with Clause 6, subject to the amendment proposed by the Bill sponsor.

Clause 7: Records of Contacts

The Committee considered Clause 7 as drafted.

The question was put that the Committee is content with Clause 7.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA

NOES

Maolíosa McHugh MLA

ABSTAIN

Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

Philip McGuigan MLA
Jemma Dolan MLA

Agreed: The Committee is content with Clause 7 as drafted.

Clause 8: Presence of Civil Servants

The Committee considered Clause 8 and an amendment proposed by the Bill sponsor:

*Leave out clause 8 and insert
'Presence of civil servants*

8.—(1) A civil servant, other than a special adviser, must be present and take an accurate written record of every meeting held by a minister or special adviser with non-departmental personnel about official business; except for liaison with the minister's political party.

(2) The department must retain the record made pursuant to subsection (1).'

Agreed: The Committee is content with the amendment proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 8, subject to the amendments proposed by the Bill sponsor.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

NOES

Maoliosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 8, subject to the amendment proposed by the Bill sponsor.

8A - Record of Being Lobbied

The Committee noted an amendment by the Bill sponsor to introduce a new Clause 8A:

*After clause 8 insert
'Record of being lobbied*

8A.—(1) *In the event of a minister or special adviser, other than as provided for in section 8, being lobbied, then, the minister or (as the case may be) special adviser must provide at the earliest opportunity a written record to their department of all such lobbying and the department must retain such records.*

(2) *In this section "being lobbied" means to receive personally a communication, either oral or written, on behalf of the person making the communication or another person or persons, relating to:*

(a) the development, adoption or modification of any proposal of the department to make or amend primary or subordinate legislation;

(b) the development, adoption or modification of any other policy of the department;

(c) the making, giving or issuing by the department of, or the taking of any other steps by the department in relation to,—

(i) any contract or other agreement,

(ii) any grant or other financial assistance, or

(iii) any licence or other authorisation; or (d) the exercise of any other function of the department.

(3) *For the purposes of subsection (2), it does not matter whether the communication occurs in or outwith the United Kingdom.*

(4) *Nothing in this section shall apply to a communication— (a) made in proceedings of the Northern Ireland Assembly or the Executive Committee, or (b) arising in the course of liaison with the minister's political party.'*

The question was put that the Committee is content to note Clause 8A.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA

Paul Frew MLA

Jim Wells MLA

Jim Allister MLA

Pat Catney MLA

Matthew O'Toole MLA

NOES

Maolfosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

ABSTAIN

Agreed: To note Clause 8A.

Clause 9: Use of Official Systems

The Committee considered Clause 9 and an amendment proposed by the Bill sponsor:

Leave out clause 9 and insert

'Use of official systems

9.— (1) *A minister, special adviser or civil servant when communicating on official business by electronic means must not use personal accounts or anything other than devices issued by the department, systems used by the department and departmental email addresses.*

(2) *If out of necessity it is not possible to comply with the requirements of subsection (1) the minister or (as the case may be) special adviser or civil servant must within 48 hours, or as soon thereafter as reasonably practicable,*

(a) copy to the departmental system any written material generated during the use of non-departmental devices or systems; and

(b) make an accurate record on the departmental system of any verbal communications relating to departmental matters.

(3) *It shall be an offence for any minister, special adviser or civil servant to fail to comply with the requirements of subsection (2).*

(4) *In proceedings in respect of a charge against a person (“A”) of the offence under subsection (3), it is a defence for A to show that the course of behaviour was reasonable in the particular circumstances or was in the public interest.*

(5) *A person is taken to have shown the fact mentioned in subsection (4) if—*

(a) evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (4), and

(b) the prosecution does not prove beyond reasonable doubt that the course of behaviour is not as described in subsection (4).

(6) *A person guilty of an offence under this section is liable on conviction*

(a) on indictment, to imprisonment for a term not exceeding 2 years;

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.’

Agreed: The Committee is content with the amendment proposed by the Bill sponsor.

The question was put that the committee is content with Clause 9, subject to the amendment proposed by the Bill sponsor.

The Committee divided: Ayes: 4 Noes: 5 Abstain 0

AYES

Dr Steve Aiken MLA

Paul Frew MLA

Jim Wells MLA

Jim Allister MLA

NOES

Maolíosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

Pat Catney MLA

Matthew O’Toole MLA

ABSTAIN

Agreed: The Committee is not content with Clause 9, subject to the amendment proposed by the Bill sponsor.

Clause 10: Register of Interests

The Committee considered Clause 10 and amendments proposed by the Bill sponsor:

Clause 10, Page 4, Line 10
Leave out '21' and insert '28'
Clause 10, Page 4, Line 12
Leave out 'close'

Clause 10, Page 4, Line 13
Leave out '21' and insert '28'

Agreed: The Committee is content with the amendments proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 10, subject to amendments proposed by Bill sponsor.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

NOES

Maolfosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 10, subject to the amendments proposed by the Bill sponsor.

Clause 11: Offence of Unauthorised Disclosure

The Committee considered Clause 11 and an amendment proposed by the Bill sponsor.

Leave out clause 11 and insert

'Offence of unauthorised disclosure

11.—(1) Without prejudice to the operation of the Official Secrets Acts 1911-1989 and save in the discharge of a statutory obligation or in the lawful pursuit of official duties, it shall be an offence for any minister, civil servant or special adviser to communicate, directly or indirectly, official information to another for the financial or other improper benefit of any person or third party.

(2) *In proceedings in respect of a charge against a person (“A”) of the offence under subsection (1), it is a defence for A to show that the course of behaviour was reasonable in the particular circumstances or was in the public interest.*

(3) *A person is taken to have shown the fact mentioned in subsection (2) if—*

(a) evidence adduced is enough to raise an issue as to whether the course of behaviour is as described in subsection (2), and

(b) the prosecution does not prove beyond reasonable doubt that the course of behaviour is not as described in subsection (2).

(4) *A person guilty of an offence under this section is liable on conviction*

(a) on indictment, to imprisonment for a term not exceeding 2 years;

(b) on summary conviction, to imprisonment for a term not exceeding 6 months or a fine not exceeding the statutory maximum or both.’

The question was put that the Committee is content with the amendment proposed by the Bill sponsor.

The Committee divided: Ayes: 4 Noes: 5 Abstain 0

AYES

Dr. Steve Aiken MLA

Paul Frew MLA

Jim Wells MLA

Jim Allister MLA

NOES

Maolíosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

Pat Catney MLA

Mathew O’Toole MLA

ABSTAIN

Agreed: The Committee is not content with the amendment proposed by the Bill sponsor.

The Committee considered Clause 11 as drafted.

The question was put that the Committee is content with Clause 11.

The Committee divided: Ayes 2; Noes 5; Abstain 2

AYES

Jim Wells MLA

Jim Allister MLA

NOES

Maolíosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

Pat Catney MLA

Matthew O’Toole MLA

ABSTAIN

Dr Steve Aiken MLA

Paul Frew MLA

Agreed: The Committee is not content with the Clause 11 as drafted.

Clause 9: Use of Official Systems

The Committee considered Clause 9 as drafted.

The question was put that the Committee is content with Clause 9 as drafted.

The Committee divided: Ayes 3; Noes 5; Abstain 1

AYES

Dr Steve Aiken MLA

Jim Wells MLA

Jim Allister MLA

NOES

Maolíosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

Pat Catney MLA

Matthew O'Toole MLA

ABSTAIN

Paul Frew MLA

Agreed: The Committee is not content with Clause 9 as drafted.

Clause 12: Biennial Report

The Committee considered Clause 12 and the amendment proposed by the Bill sponsor.

Leave out from 'relevant' to 'actions' on line 31 and insert 'judgements of the courts relevant to the functioning of government.'

Agreed: The Committee is content with the amendments proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 12, subject to amendment proposed by Bill sponsor.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA

Paul Frew MLA

Jim Wells MLA

Jim Allister MLA

Pat Catney MLA

Matthew O'Toole MLA

NOES

Maolíosa McHugh MLA

Philip McGuigan MLA

Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 12, subject to the amendment proposed by the Bill sponsor.

Clause 13: Commencement

The Committee considered Clause 13 as drafted.

The question was put that the Committee is content with Clause 13

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

NOES

Maolíosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 13 as drafted.

Clause 14: Interpretation

The Committee considered Clause 14 and amendments proposed by the Bill sponsor:

Clause 14, Page 5, Line 10

At end insert

“family member” has the same meaning as set out in Schedule 1(3) to the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011.’

Clause 14, Page 5, Line 10

At end insert

“department” means a Northern Ireland department as set out in Schedule 1, Departments Act (Northern Ireland) 2016.’

Clause 14, Page 5, Line 10

At end insert

“The Executive Committee” means the Executive Committee as established by section 20 of the Northern Ireland Act 1998.’

Agreed: The Committee agreed that it is content with the amendments proposed by the Bill sponsor.

The question was put that the Committee is content with Clause 14, subject to the amendments proposed by the Bill sponsor.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
 Paul Frew MLA
 Jim Wells MLA
 Jim Allister MLA
 Pat Catney MLA
 Matthew O'Toole MLA

NOES

Maolíosa McHugh MLA
 Philip McGuigan MLA
 Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 14, subject to the amendments proposed by the Bill sponsor.

Clause 15: Short Title - The Functioning of Government (Miscellaneous Provisions) Act (Northern Ireland) 2020

The Committee considered Clause 15 as drafted.

The question was put that the Committee is content with Clause 15.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
 Paul Frew MLA
 Jim Wells MLA
 Jim Allister MLA
 Pat Catney MLA
 Matthew O'Toole MLA

NOES

Maolíosa McHugh MLA
 Philip McGuigan MLA
 Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with Clause 15 as drafted.

Schedule: Transitional Provisions: Termination Payments

The Committee considered the Schedule as drafted.

The question was put that the Committee is content with the Schedule.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
 Paul Frew MLA
 Jim Wells MLA
 Jim Allister MLA
 Pat Catney MLA
 Matthew O'Toole MLA

NOES

Maolíosa McHugh MLA
 Philip McGuigan MLA
 Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with the Schedule as drafted.

Long Title: - Amend sections 7 and 8 of the Civil Service (Special Advisers) Act (Northern Ireland) 2013 and Article 3 of the Civil Service Commissioners (Northern Ireland) Order 1999 in relation to special advisers in the Northern Ireland Civil Service, repeal the Civil Service Commissioners (Amendment) Order (Northern Ireland) 2016, amend section 17 of the Assembly Members (Independent Financial Review and Standards) Act (Northern Ireland) 2011 and to make additional provision for the functioning of government in Northern Ireland and connected purpose

The Committee considered the Long Title as drafted.

The question was put that the Committee is content with the Long Title.

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

NOES

Maolfosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Agreed: The Committee is content with the Long Title as drafted.

Clause 11A: Accountability to the Assembly; provision of information

The Committee considered a proposed amendment by the Bill sponsor to introduce a new Clause 11A:

After clause 11 insert

'Accountability to the Assembly: provision of information

11A.—(1) Ministers and their departments must provide to an Assembly *committee* such information as that committee may reasonably require in order to discharge its functions, being information which—

(a) has been requested in writing; and

(b) relates to the statutory functions exercisable by the minister or their department.'

The question was put that the Committee is content to note Clause 11A as drafted

The Committee divided: Ayes 6; Noes 3; Abstain 0

AYES

Dr Steve Aiken MLA
Paul Frew MLA
Jim Wells MLA
Jim Allister MLA
Pat Catney MLA
Matthew O'Toole MLA

NOES

Maoliosa McHugh MLA
Philip McGuigan MLA
Jemma Dolan MLA

ABSTAIN

Agreed: The Committee noted Clause 11A as drafted.

The Assembly Clerk, Bill Office left the meeting at 15.30pm

[Extract]