



Northern Ireland
Assembly

Committee for Finance

Minutes of Proceedings

19 January 2022

Meeting Location: The Senate Chamber, Parliament Buildings

Present: Dr Steve Aiken OBE MLA (Chairperson)
Mr Keith Buchanan MLA (Deputy Chairperson)
Mr Jim Allister MLA
Mr Maolíosa McHugh MLA
Mr Jim Wells MLA

Present by Video or Teleconference:

Mr Pat Catney MLA
Ms Jemma Dolan MLA
Mr Philip McGuigan MLA
Mr Matthew O'Toole MLA

Apologies: None

In Attendance: Mr Peter McCallion (Assembly Clerk)
Ms Carla Campbell (Assistant Assembly Clerk)
Mr Stephen Magee (Clerical Supervisor)

In Attendance by Video or Teleconference:

Ms Heather Graham (Clerical Officer)
Ms Barbara Love (Bill Clerk) (Item 6 only)

The meeting commenced at 2:00pm in open session

1. Apologies

There were no apologies.

2. Declaration of Interests

Steve Aiken declared an interest in relation to correspondence received as he had recently met with the Reserve Forces and Cadet Association for Northern Ireland.

3. Chairperson's Business

3.1 Fiscal Commission NI

The Chairperson advised the Committee that as previously agreed, he had met informally with the Fiscal Commission for Northern Ireland on Tuesday 18 January 2022. The discussion included issues relating to: super-parity; VAT and the NI Protocol; economic inactivity in Northern Ireland; and the devolution of income tax in Scotland.

Agreed: The Committee agreed to share the presentation from the Fiscal Commission for Northern Ireland via Twitter.

Maoliosa McHugh joined the meeting at 2:02pm.

Pat Catney joined the meeting at 2:02pm.

4. Draft Minutes

Agreed: The Committee agreed the minutes of the meeting held on Wednesday 12 January 2022.

5. Matters Arising

There were no matters arising.

6. Defamation Bill – Committee Stage – Formal Clause by Clause Scrutiny

The Bill Sponsor joined the meeting at 2:03pm.

- Mike Nesbitt MLA

The Committee noted the Bill Sponsor's tabled amendments.

The session was reported by Hansard.

The Committee commenced its formal clause by clause consideration of the Defamation Bill.

Clause 1 - Serious Harm

The Committee considered Clause 1 as drafted.

The question was put that the Committee was content that Clause 1 as drafted should stand as part of the bill.

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

AYES

Mr Steve Aiken

Mr Pat Catney

Mr Matthew O'Toole

Mr Jim Wells

NOES

Mr Jim Allister

Mr Keith Buchanan

Ms Jemma Dolan

Mr Philip McGuigan

Mr Maolíosa McHugh

The motion was negated.

Clause 2 - Truth

The Committee considered Clause 2 and a proposed amendment which included a typographical correction:

Amendment 1

Clause 2, Page 1, Line 19 –

Leave out 'Defamation (Northern Ireland) Act' and insert 'Defamation Act (Northern Ireland)'

Agreed: The Committee agreed that it was content that to amend Clause 2 as indicated in Amendment 1.

Agreed: The Committee agreed that it was content that Clause 2 as amended should stand part of the Bill.

Clause 3 - Honest Opinion

The Committee considered Clause 3 and proposed Amendments 2, 3 and 4.

Amendment 2

Clause 3, Page 2, Line 12 -

After 'before' insert 'or at the same time as'

Amendment 4

Clause 3, Page 2, Line 31

Leave out 'Defamation (Northern Ireland) Act' and insert 'Defamation Act (Northern Ireland)'

Agreed: The Committee agreed to it was content to amend Clause 3 as indicated in Amendment 2 and Amendment 4.

Amendment 3

Clause 3, Page 2, Line 13, -

at end insert- '(c) any fact that the defendant reasonably believed to exist at the time the statement complained of was published.'

The question was put that the Committee was content to amend Clause 3 as amended as indicated in Amendment 3.

The Committee divided: Ayes 7; Noes 2; Abstain 0.

AYES

Mr Steve Aiken

Mr Pat Catney

Ms Jemma Dolan

Mr Philip McGuigan

Mr Maolíosa McHugh

Mr Matthew O'Toole

NOES

Mr Jim Allister

Mr Keith Buchanan

Mr Jim Wells

Agreed: The Committee agreed that it was content that Clause 3 as amended should stand part of the Bill.

Clause 4 - Public Interest

The Committee considered Clause 4.

Agreed: The Committee agreed that it was content that Clause 4 as drafted should stand as part of the Bill.

Clause 5 - Website Operators

The Committee considered Clause 5 and a proposed amendment:

Amendment 5

Clause 5, Page 4, Line 4

Leave out subsections (8), (9) and (10)

Agreed: The Committee agreed that it was to amend Clause 5 as indicated in Amendment 5.

The question was put that the Committee was content that Clause 5 as amended should stand part of the Bill.

The Committee divided: Ayes 1: Noes 6: Abstain 2.

AYES

Mr Steve Aiken

NOES

Mr Jim Allister

ABSTAIN

Mr Matthew O'Toole

Mr Keith Buchanan

Mr Pat Catney

Ms Jemma Dolan

Mr Philip McGuigan

Mr Maolíosa McHugh

Mr Jim Wells

The motion was negated.

Clause 6 - Scientific Journals

The Committee considered Clause 6 as drafted.

Agreed: The Committee agreed it was content that Clause 6 as drafted should stand part of the Bill.

Clause 7 – Privileged Reports

The Committee considered Clause 7 as drafted.

Agreed: The Committee agreed it was content that Clause 7 as drafted should stand part of the Bill.

Clause 8 - Single Publication Rule

The Committee considered Clause 8 and a proposed amendment:

Amendment 6

Clause 8, Page 7, Line 22

Leave out 'Act' and insert 'Order'

Agreed: The Committee agreed it was content to amend Clause 8 as indicated in Amendment 6.

The question was put that the Committee was content that Clause 8 as amended should stand part of the bill

The Committee divided: Ayes 3; Noes 3; Abstain 3.

AYES

Mr Steve Aiken

Mr Pat Catney

Mr Matthew O'Toole

NOES

Ms Jemma Dolan

Mr Philip McGuigan

Mr Maolíosa McHugh

ABSTAIN

Mr Jim Allister

Mr Keith Buchanan

Mr Jim Wells

The motion fell.

Clause 9 - Actions Against Those Not Domiciled in the UK etc.

The Committee considered Clause 9 and a proposed amendment:

Amendment 7

Leave out Clause 9 and insert-

Jurisdiction

'Action against a person not domiciled in the UK

9.—(1) *This section applies to an action for defamation against a person who is not domiciled in the United Kingdom.*

(2) *A court does not have jurisdiction to hear and determine an action to which this section applies unless the court is satisfied that, of all the places in which the statement complained of has been published, Northern Ireland is clearly the most appropriate place in which to bring an action in respect of the statement.*

(3) *The references in subsection (2) to the statement complained of include references to any statement which conveys the same, or substantially the same, imputation as the statement complained of.*

(4) *Sections 41 and 42 of the Civil Jurisdiction and Judgments Act 1982 apply for the purpose of determining whether an individual, corporation or association is regarded as “domiciled in the United Kingdom” for the purposes of this section.’*

Agreed: The Committee agreed that it was content to amend Clause 9 as indicated in Amendment 7.

The question was put that the Committee was content that Clause 9 as amended should stand part of the Bill.

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

AYES

Mr Steve Aiken

Mr Keith Buchanan

Mr Pat Catney

Mr Matthew O’Toole

Mr Jim Wells

NOES

Mr Jim Allister

Ms Jemma Dolan

Mr Philip McGuigan

Mr Maolíosá McHugh

The motion was carried.

Clause 10 - Actions Against Those Who Are Not The Author Etc.

The Committee considered Clause 10 and a tabled amendment which set out definitions of author, editor etc..

The question was put that the Committee was content to amend Clause 10 as indicated in the tabled amendment.

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

AYES

NOES

Abstain

Mr Steve Aiken

Ms Jemma Dolan

Mr Keith Buchanan

Mr Jim Allister

Mr Philip McGuigan

Mr Pat Catney

Mr Maoliosa McHugh

Mr Matthew O'Toole

Mr Jim Wells

The motion was carried.

The question was put that the Committee was content that Clause 10 as amended should stand part of the Bill.

The Committee divided: Ayes 4; Noes 4; Abstain 1.

AYES

NOES

Abstain

Mr Steve Aiken

Mr Jim Allister

Mr Keith Buchanan

Mr Pat Catney

Ms Jemma Dolan

Mr Matthew O'Toole

Mr Philip McGuigan

Jim Wells

Maoliosa McHugh

The motion fell.

New Clause 10A – Alternative Dispute Resolution (ADR)

The Committee considered Amendment 8 which includes a new Clause 10A which allows judicial discretion to require the use of ADR.

Amendment 8

After Clause 10 insert-

New Clause 10A

'Alternative Dispute Resolution

10A.—A judge may order plaintiffs and defendants to engage in Alternative Dispute Resolution before commencement of a trial.'

Agreed: The Committee agreed that it was content that new Clause 10A as indicated in Amendment 8 should stand part of the Bill.

Clause 11 Trial without jury

The Committee considered Clause 11 as drafted.

The question was put that that the Committee was content that Clause 11 as drafted should stand part of the Bill.

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

AYES

Mr Steve Aiken

Mr Pat Catney

Mr Matthew O'Toole

NOES

Mr Jim Allister

Ms Jemma Dolan

Mr Philip McGuigan

Mr Maolíosa McHugh

Abstain

Mr Keith Buchanan

Mr Jim Wells

The motion was negatived.

Clause 12 - Summary Judgement

The Committee considered Clause 12.

Agreed: The Committee agreed it was content that Clause 12 as drafted should stand part of the Bill.

Clause 13 - Order to Remove and Cease

The Committee considered Clause 13.

Agreed: The Committee agreed it was content that Clause 13 as drafted should stand part of the Bill.

Clause 13A - County Court Jurisdiction

The Committee considered Amendment 9 which includes a new clause 13A.

Amendment 9

After Clause 13 insert-

New Clause 13A 'Financial limits of county courts

Increase of financial limits of civil jurisdiction of county courts

13A.— The Department of Justice must carry out a review of the financial limits of civil jurisdiction of county courts in respect of libel and slander before the end of the period of 2 years beginning with the day on which this Act receives Royal Assent.'

Agreed: The Committee agreed it was content that the new Clause 13A as indicated in Amendment 9 should stand part of the Bill.

Clause 14 - Action For Slander

The Committee considered Clause 14.

Agreed: The Committee agreed it was content that Clause 14 as drafted should stand part of the Bill.

Clause 14A - Review

The Committee considered Amendment 10 which includes a new clause 14A:

Amendment 10

After Clause 14 insert-

New Clause 14A‘Review of Defamation Law

Review of Defamation Law

14A.—(1) The Department must keep under review all relevant developments pertaining to law on defamation as it considers appropriate.

(2) The Department must prepare a report and recommendations on—

- a. The findings of the review under subsection (1), and*
- b. The operation of this Act.*

(3) The Department must lay and publish the report and recommendations under subsection (2) before the end of the period of 2 years beginning with the day on which this Act receives Royal Assent.’

Agreed: The Committee agreed it was content that the new Clause 14A as indicated in Amendment 10 should stand part of the bill.

Clause 15 - Meanings

The Committee considered Clause 15 and proposed amendments:

Amendment 11

Clause 15, Page 9, Line 21

Leave out ‘Meaning of “publish” and “statement”’ and insert ‘Interpretation’

Amendment 12

Clause 15, Page 9, Line 26,

*at end insert-“the Department” means The Department of Finance.
“Regulations” means regulations made by the Department.’*

Agreed: The Committee agreed that it was content to amend Clause 15 as indicated in Amendments 11 and 12.

Agreed: The Committee agreed that it was content that Clause 15 as amended should stand part of the Bill.

Clause 16 - Consequential Amendments

The Committee considered Clause 16 and proposed amendment:

Amendment 13

Clause 16, Page 9, Line 34

Leave out 'Defamation (Northern Ireland) Act' and insert 'Defamation Act (Northern Ireland)'

Agreed: The Committee agreed that it was content to amend Clause 16 as indicated in Amendment 13.

Agreed: The Committee agreed that it was content that Clause 16 as amended should stand part of the Bill.

Clause 17 - Regulations

The Committee considered Clause 17 and proposed amendments:

Amendment 14

Clause 17, Page 10, Line 9

Leave out subsection (1) and insert- '(1) Subject to subsection (2), regulations under this Act may not be made unless a draft of them has been laid before and approved by a resolution of the Assembly.'

Amendment 15

Clause 17, Page 10, Line 16

Leave out subsection (4)

Agreed: The Committee agreed that it was content to amend Clause 17 as indicated in Amendments 14 and 15.

Agreed: The Committee agreed that it was content that Clause 17 as amended should stand part of the Bill.

Clause 18 Commencement

The Committee considered Clause 18 and a proposed amendment:

Amendment 16

Clause 18, Page 10, Line 19-

at end insert- '(1A) Section 17 and section 19 come into operation immediately.'

- Agreed: The Committee agreed that it was content to amend Clause 18 as indicated in Amendment 16.
- Agreed: The Committee agreed to recommend that the Bill Sponsor bring forward a further amendment which would require provisions to be commenced after Royal Assent and not simply at the discretion of the Department.
- Agreed: The Committee agreed to defer consideration of the clause as amended.
- Agreed: The Committee agreed to defer consideration of the short title and long title of the Bill until 26 January 2022 and that the Clerk should prepare a report on the Committee Stage for this date.
- Agreed: The Committee agreed to adopt a revised order of agenda items.

7. Subordinate Legislation – Hospitality Support

The Committee noted papers relating to SR 5/2022 The Financial Assistance (Coronavirus: Hospitality) Regulations (Northern Ireland) 2022, and correspondence relating to covid support for the hospitality sector.

- Agreed: The Committee agreed to write to the Department of Finance seeking clarification on businesses making fresh applications for covid hospitality support.
- Agreed: The Committee considered SR 5/2022 The Financial Assistance (Coronavirus: Hospitality) Regulations (Northern Ireland) 2022 and agreed that, subject to the report of the Examiner of Statutory Rules, it had no objection to the rule.

8. Subordinate legislation – Making and Levying Different Rates

The Committee noted an SL1: The Rates (Making and Levying of Different Rates) Regulations (Northern Ireland) 2022.

- Agreed: The Committee agreed that it was content with the policy objectives and it was therefore content for the Department to make the rule.

9. Correspondence

9.1 Correspondence Index

The Committee noted an index of incoming correspondence.

9.2 Budget Scrutiny

The Committee noted an interim response from the Committee for Agriculture, Environment and Rural Affairs on the 2022-25 draft budget

9.3 Education Budget

The Committee noted a copy of a response from the Minister of Finance to the Committee for Education disputing the suggestion that the 2022-25 draft budget would lead to a 2% real terms reduction to the Department for Education budget.

9.4 Unique Circumstances Funding

The Committee considered a response from the Department of Finance again declining to provide information on the Unique Circumstances funding.

Agreed: The Committee agreed that the Clerk would report back to the Committee in relation to the background to the Unique Circumstances funding.

9.5 Procurement Reform Bill

The Committee noted an update from the Minister of Finance on the Westminster Procurement Reform Bill.

9.6 RHI Closure Delay

The Committee considered a response from the Department of Finance, to the Committee's query, which appears to indicate that although the RHI closure fund is not to be used in this mandate, the Department hasn't yet asked Treasury if the funding can be rolled over to the next financial year.

Agreed: The Committee agreed to write again to the Department of Finance to seek clarity in respect of the RHI closure fund.

9.7 Energy Payment Support Scheme

The Committee noted a written statement from the Minister of Finance in respect of the Department for Communities £200 energy support payment scheme costing £55m.

Jim Wells noted difficulties associated with other Department for Communities energy support schemes.

10. Oral Evidence – Fiscal Commission for Northern Ireland – Interim Report

The witnesses joined the meeting at 3:06pm

- Mr Paul Johnson, Chairperson, Northern Ireland Fiscal Commission.
- Professor Iain McLean, Commission Member, Northern Ireland Fiscal Commission.
- Professor Cathy Gormley-Heenan, Commission Member, Northern Ireland Fiscal Commission

The Committee noted: the Fiscal Commission presentation; correspondence from the Minister of Finance and Chief Secretary of the Treasury in relation to fiscal sustainability of the Executive; and correspondence from the House of Commons European Scrutiny Committee on VAT and the NI Protocol.

Mr Johnston briefed the Committee.

This was followed by a question and answer session.

Pat Catney left the meeting at 4:00pm.

Maolíosa McHugh left the meeting at 4:13pm.

The Chairperson thanked the witnesses for their briefing.

Agreed: The Committee agreed to write to the Fiscal Commission NI requesting information about the aggregates levy and how the associated benefits were used and for information of the quantum of the apprenticeships levy.

Agreed: The Committee agreed to write to the Department of Finance in relation to the crown estate to ask: where ownership lies; if funding has been returned to Northern Ireland in lieu of revenue raised; and how much revenue is raised for the use of such assets, for example, the seabed.

11.2nd LCM – Public Sector Pensions

The witnesses joined the meeting at 4:20pm

- Ms Colette Heaney, Acting Director, Pensions Division, Department of Finance.
- Ms Blathnaid Smyth, Assistant Director, Public Service Pensions, Department of Finance.
- Mr Stephen Ball, Public Services Pensions Policy and Legislation Branch, Department of Finance.

The Committee noted Departmental papers on the anticipated Legislative Consent Motion.

Jim Allister left the meeting at 4:21pm.

Jim Wells declared an interest as Chairperson of the Northern Ireland Assembly Members Pension Scheme.

Ms Heaney briefed the Committee.

This was followed by a question and answer session.

The session was reported by Hansard.

The Chairperson thanked the officials for their briefing.

Agreed: The Committee agreed that, in line with Standing Order 42A(9), it would not report on the Legislative Consent Motion, however, the Chairperson would speak in the related debate.

Agreed: The Committee agreed to seek further related oral or written evidence from the Northern Ireland Committee of the Irish Congress of Trade Unions at next week's Committee meeting on 26 January 2022.

12. Correspondence continued

12.1 Housing Benefit Transfer

The Committee considered a response from the Department of Finance to Committee queries advising that Housing Benefit Relief will not transfer from Land and Property Services to the Northern Ireland Housing Executive (NIHE).

Agreed: The Committee agreed to write to the Committee for Communities seeking its views on the related statutory rule and whether it is content that NIHE has the capacity to deliver the Housing Benefit function.

12.2 Charitable Exemption

The Committee considered correspondence from the Reserve Forces and Cadet Association for NI querying the treatment of the cadet organisations for the purposes of non-domestic rates charitable exemption relief.

Agreed: The Committee agreed to write to the Department of Finance seeking clarity as to charitable exemption in England and Wales and the reason it is not applied in Northern Ireland.

12.3 Support for Pensioners

The Committee noted a copy of further correspondence from a concerned individual to the Department in respect of NIHE repair grants

12.4 QES Report

The Committee noted the NI Chamber of Commerce and BDO Quarterly Economic Survey – 4th Quarter of 2021.

12.5 Domestic and Sexual Abuse and Violence Strategy

The Committee noted joint correspondence from The Executive Office, Department of Justice and Department of Health, calling for views to inform the development of two new domestic abuse and violence against women strategies:

12.6 Composite Information Request

Agreed: The Committee agreed that the composite request was an accurate and complete record of the Committee's outstanding information requests.

13. Forward Work Programme

The Committee considered a draft of its Forward Work Programme.

Agreed: The Committee agreed its Forward Work Programme, as drafted.

14. Any Other Business

Jim Wells noted the disturbance caused by the division bells during the meeting.

There was no other business.

15. Date, Time and Place of the next meeting

The next meeting of the Committee for Finance will be at 2pm on Wednesday 26 January 2022 in the Senate and on Starleaf.

The meeting was adjourned at 4:47pm.

Dr Steve Aiken MLA
Chairperson, Committee for Finance

26 January 2022