

**REQUEST FROM: FINANCE COMMITTEE – DALO READOUT - MEETING
FRIDAY 4 JULY 2025**

Point 9 – Members requested a copy of the Delegated Powers memorandum for the Administration and Financial Provisions Bill.

Response –

- A Delegated Powers Memorandum has been prepared by DoF in consultation with the other 6 Departments (DAERA, DfC, DfE, DE, DfI, TEO).
- This Delegated Powers Memorandum has now been reviewed by the Departmental Solicitors Office (DSO) who have confirmed that it is an accurate reflection of the Bill.
- A copy has now been provided to the Finance Committee for review.

Administrative and Financial Provisions Bill (Bill 19/22-27)

Delegated Powers Memorandum

Introduction

1. This memorandum identifies and explains the provisions in the Administrative and Financial Provisions Bill that confer powers to make subordinate legislation. It sets out the purpose of each power, the justification for its inclusion, and the proposed level of Assembly scrutiny.

Overview of the Administrative and Financial Provisions Bill

2. Financial Provisions Bills are brought forward by the Department of Finance (DoF), at appropriate intervals, to deal with routine financial matters that require amendments to governing legislation. The Bill addresses a range of routine but important administration and financial matters across 7 Departments. The Bill deals with Powers, Fees and Financial Governance and contains 20 substantive Clauses. Each of these Clauses is summarised in the table below. A full description of the Clauses included in the Bill is provided within the Explanatory and Financial Memorandum that accompanies the Bill.

Powers		
Clause	Department	Description
1	DoF	Strategic Investment Funding
2	DfE	Economic Support
3	DfE	Higher Education Funding
4	DfE	Support in relation to employment and training
5	DfE	Classification or grading of tourist amenities
6	TEO	Support services for victims and survivors
7	TEO	Asylum and Immigration integration support services
8	TEO	Public appointments: provision of development opportunities
9	TEO	Ending Violence Against Women and Girls
10	TEO	Section 9: Supplementary
11	DE	Postgraduate qualifications in educational psychology
12	DfC	Investigations of housing association tenancy fraud
13	DfC	Setting the rate of basic allowance for councillors
14	TEO	Discretion as to a particular commissioner's term of office

Fees		
15	DfE	NI Tourist Board
16	DAERA	Marine licensing
17	DfI	Travel concession passes
Financial Governance		
18	DoF	Advances out of the consolidated fund: Increase to limit
19	DfE	Petroleum and mineral: removal of requirement for separate accounts
20	DoF	Appointment of auditor for NI Audit Office

Delegated Powers

3. The following table provides the Clauses which confer powers to make subordinate legislation. An explanation is then provided along with the justification for each.

Delegated Powers			
Clause	Power Conferred	Purpose	Procedure
6	Support for Victims and Survivors	To enable TEO to arrange or facilitate the provisions of services to Victims and Survivors	Negative resolution
7	Asylum and Immigration Integration Support	To enable TEO to arrange or facilitate the provisions of services to Asylum Seekers or persons with immigration status	Negative resolution
13	Councillor Allowances	To enable DfC to set basic councillor allowances	Negative resolution
15	Tourism NI Fees	To enable DfE to set, exempt or remit the fees charges by Tourism NI	Negative resolution
16	Marine Licensing Fees	To enable DAERA to charge fees for marine licensing activities	Negative resolution
17	Travel Concessionary Fares Pass Fees	To enable DfI to charge a fee for the issuing or replacement of concessionary fare pass	Negative resolution

Clause 6 – Support for Victims and Survivors

4. Under Clause 6, the Administrative and Financial Provisions Bill provides TEO powers to arrange or facilitate relevant services to individuals who are victims and survivors. The Bill describes a victim and survivor as an individual who has been:
 - a victim and survivor for the purposes of the Historical Institutional Abuse (NI) Act 2019,
 - was a resident of a relevant institution between 1922 and 1995,
 - is a child of someone who was born during the residence in a relevant institution between 1922 and 1995.

5. Further to the above provisions, the Bill allows TEO to prescribe descriptions, in regulations, as to who may be considered a victim and survivors subject to these prescribed descriptions detailing:
 - the individual suffered some kind of sexual, physical, emotional abuse or neglect or maltreatment, witnessed others suffering abuse, or were exposed to a harsh environment; or
 - the individual resided in a relevant institution at a date between 1922 to 1995.

Draft Negative Resolution

6. In the Bill, Clause 6 (6) provides for negative resolution for any prescribed descriptive regulations that may be taken forward by TEO. Negative resolution is sought as it provides TEO with the flexibility to make such regulations to ensure that the policy intentions of Ministers and the Executive can be addressed quickly to ensure appropriate and timely support for victims and survivors identified. This will ensure that people suffering from trauma because of abuse in the past will not have to wait to access services and can quickly be supported once policy decisions are made.

Power conferred on: The Executive Office

Power exercised by: Regulations

Assembly procedure: Draft negative resolution

Clause 7 – Asylum and Immigrations Integration

7. Clause 7 of the Administrative and Financial Provisions Bill provides TEO powers to provide, arrange or facilitate the provision of services to individuals locally who are asylum-seekers, or a dependent of an asylum seeker or persons having a qualifying immigration status. Under Clause 7 (3), an individual is defined as qualifying for immigration status if they:
 - have humanitarian protection or refugee status granted under immigration rules are permitted to enter or remain in the UK:
 - because they are under a policy, programme or scheme of the UK government that enables non-UK citizens to be present locally due to:
 - adverse circumstances in another place, or;
 - adverse circumstances in another place, outside the immigration rules.

8. Under Clause 7 (4) the Executive office, by regulation may add, remove or modify a description of circumstances in which an individual has a qualifying immigration status.

Negative Resolution

9. Under Clause 7 (5) in the Administrative and Financial Provisions Bill, negative resolution is proposed to allow TEO to set regulations. Negative resolution is sought to enable flexibility to ensure TEO can provide integration services as quickly as possible, should UKG introduce new circumstances whereby someone has qualifying immigration status, thus ensuring that the policy intentions of Ministers can be addressed quickly.

Power conferred on: The Executive Office

Power exercised by: Regulations

Assembly procedure: Draft Negative resolution

10. Clause 7(4) of the Bill is a Henry VIII power as it enables TEO by regulations to amend subsection (3) of that clause.

Clause 13 – Councillor Allowances

11. DfC wish to utilise the Administrative and Financial Provisions Bill to amend the Local Government Finance Act (NI) 2011, which utilises regulations to prescribe the basic allowance that is paid to councillors. Under the 2011 Act, the responsibility for setting councillor allowances rests with individual councils. DfC propose that this responsibility, in the interests of equity and fairness transfers to the Department. The Administrative and Financial Provisions Bill will amend section 31 of the Local Government Finance Act (NI) 2011 accordingly, thus enabling the Department to set regulations in relation to the basic allowance payable to councillors.

12. **Draft Negative Resolution** is proposed for Clause 13. Negative resolution is deemed appropriate as the setting of basic allowances for councillors is not of a substantive enough nature to require Assembly scrutiny.

Power conferred on: The Department for Communities

Power exercised by: Regulations

Assembly procedure: Draft negative resolution

Clause 15 – Tourism NI Fees

13. Clause 15 of the Administrative and Financial Provisions Bill is being used by DfE to amend Articles 4 & 20 of the Tourism (NI) Order 1992, in relation to Fees. These changes are sought to allow DfE, via regulations, to exempt or remit certain fees in exceptional circumstances and to also allow new fees to be implemented.

14. **Draft Negative Resolution** is proposed for Clause 14 as it is in keeping with the process already in place for tourist accommodation under The Tourism Act (NI) 1992. The negative resolution process also permits flexibility and/or speed to make

updates where necessary and these updates will not be substantive enough to require Assembly scrutiny.

Power conferred on: The Department for the Economy

Power exercised by: Regulations

Assembly procedure: Draft negative resolution

Clause 16 – Marine Licensing Fees

15. DAERA has sought to use the Administrative and Financial Provisions Bill to amend the Marine and Coastal Access Act 2009. These amendments are sought to provide DAERA with greater powers to charge fees for marine licensing activities. The introduction of fees are sought for pre-application advice and assistance services, monitoring compliance with the conditions of licences and dealing with applications for the variation, suspension, transfer, etc. of licences. These fees are sought to enable DAERA to deliver a more effective marine licensing service by increasing DAERA's cost recovery rate for marine licensing services that DAERA currently provides.

16. **Draft Negative Resolution** is proposed for Clause 16. Section 67 (2) of the Marine and Coastal Access Act establishes that the fees be set out in regulations by the appropriate licensing authority. Further section 316 (8) states that such regulations are subject to negative resolution.

17. Having considered the underpinning Westminster legislation and the new provisions sought, negative resolution would remain appropriate as this would permit the Department with sufficient flexibility and speed to amend fees as necessary. Further such changes to fees would not be of a substantive enough nature to warrant Assembly scrutiny.

Power conferred on: The Department of Agriculture, Environment and Rural Affairs

Power exercised by: Regulations

Assembly procedure: Draft negative resolution

Clause 17 – Travel Concessionary Fares, Pass Fees

18. DfI seeks Clause 17, to provide the Department with the power, exercisable through regulations, to impose a fee for the issue of a SmartPass or a duplicate SmartPass (in replacement of one lost, damaged or stolen) under the Concessionary Fares Scheme. This power is sought for the purposes of recovering costs, thus improving the financial sustainability of the scheme.

19. **Draft Negative Resolution** is proposed for Clause 17 (3) which would allow the Department via regulations to set a fee for the issue and/or replacement of the travel concession pass. Negative resolution is sought to enable the Department for Infrastructure to adjust SmartPass applications, renewals, or replacement fees over time without requiring lengthy primary legislation. Such changes are not substantive enough in nature to warrant Assembly scrutiny.

20. The delegated power relates specifically to administrative charges and does not involve any radical or substantive changes to eligibility or entitlements under the Scheme. The Regulations will set out the fee levy and any exemptions which may apply. The fee levy will be set at a level that reflects the actual cost of administering the Scheme, taking into account any applicable exemptions. The fee levy will be strictly based on cost recovery and, at this early stage, is anticipated to be in the region of £10-£20. The contents of the Regulations are therefore not considered to be substantive enough in nature to require Assembly involvement and will be made by negative resolution.

21. The use of the negative resolution procedure will provide the Department with the necessary flexibility to manage the financial sustainability of the Concessionary Fares Scheme and regularly review and update the fees to ensure that, in line with the powers in the Bill, “the income from them in a given financial year does not exceed the costs arising from the issue of passes under the agreement in that financial year”. Furthermore, under the negative resolution process, any proposed changes will be subject to scrutiny by the Infrastructure Committee, which will

ensure that the Department is doing all it can to keep the administrative costs to a minimum.

Power conferred on: The Department for Infrastructure

Power exercised by: Regulations

Assembly procedure: Draft negative resolution

Henry VIII Powers:

22. Henry VIII powers are defined as a power contained within a Bill, which enables primary legislation to be amended or repealed by secondary legislation with or without further Assembly scrutiny. As such these should be clearly identified when new legislation is being considered.

23. The Administrative and Financial Provisions Bill includes one Henry VIII Power, that being under Clause 7 (4) which permits the Executive office, by regulation may add, remove or modify a description of circumstances in which an individual has a qualifying immigration status.

Conclusion:

24. The Bill contains a range of delegated powers, primarily for:
 - Fee-setting (Clauses 15, 16, 17)
 - Eligibility definitions (Clauses 6, 7)
 - Setting of Allowances (Clause 13)
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