

From the office of the Minister for Infrastructure
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Peter, a chara,

WATER, SUSTAINABLE DRAINAGE AND FLOOD MANAGEMENT BILL: COMMITTEE'S PROPOSED AMENDMENTS

I am grateful to the Committee for the proposed amendments to the Bill as per your letters of 27 May and 4 June 2026.

My Department has considered the Committee's proposals and has liaised with the Office of Legislative Council, Departmental Solicitors and the Department for Justice to bring forward amendments, where appropriate. These proposed changes, which are listed below, do not constitute any change of policy but rather a fine tuning to the means of delivery, to address the Committee's concerns.

Clause 2 – Sustainable Drainage Systems Regulations – Agreed

I am content to agree to amend Clause 2 of the Bill to provide greater clarity on who will be responsible for approval of Sustainable Drainage Systems. This will involve amendments in order to provide for the appointment of a "body" to carry out the approval role rather than a "person". This "body" may be either the Department or the water and sewerage undertaker and may seek advice from other organisations in the exercise of its functions.

As a result of this amendment there will be a number of consequential amendments for example, the reference to "specified person" in clause 2(4) will need to be replaced with "body". This approval body should also be a centre of expertise and advice on all things related to sustainable drainage systems for developers, industry, local authorities, etc.

Clause 2(5)(b) shall be amended to ensure that the provision of advice or guidance is not limited to the Department or any other public authority.

Clause 3 - Supplementary– Offences and Penalties – Agreed

With regards to penalties under Clause 3, I am content to make amendments to further define the types of notices that may be used as part of the enforcement regime, currently referred to in Clause 3(3)(b). These notices are a temporary stop notice, an enforcement notice, a breach of conditions notice and a stop notice. Amendments shall also provide examples of some of the types of offences envisaged, including cases where:

- (i) construction is commenced without approval,
- (ii) conditions of approval are breached,
- (iii) construction does not conform to the approved proposals,
- (iv) drainage features are removed or otherwise altered without approval, and
- (v) a person wilfully obstructs an authorised person who is exercising powers of entry.

In relation to the scale of penalties my officials have liaised with Departmental Solicitors and DoJ colleagues, and the penalty for when a person wilfully obstructs an authorised person who is exercising powers of entry on summary conviction for a fine not exceeding level 3 is deemed to be proportional and appropriate, as is a maximum fine amount of £100,000 on summary conviction for breaches of the offence of failure to comply with a notice. I am therefore content to make an amendment to reflect this.

Clause 116B(2) and (5) - Inclusion of “social media” in means of notification of prohibition and revocation - Agreed

The Committee has requested an amendment Clause 1 to include “social media” in the means of advertising a Temporary Use Ban. Officials from my Department have liaised with OLC on the most appropriate wording for this addition, and an amendment will be drafted to include an appropriate form of words.

Clause 6(6) – Flood Protection Grants – Domestic Buildings – Agreed

I am content for an amendment to be drafted so that regulations made under Clause 6(6), which deals with the flood grants to homeowners, will now be made by draft affirmative Assembly procedure.

Clause 15 (Commencement) – Partially agreed

On the issue of commencements, I should point out that these are typically a decision to be taken in each instance on its own merits. Leaving commencement to appointed day orders is very common, particularly for the sake of allowing smooth and workable transition from the old to the new law. Fixed dates or backstops are exceptional, and

automatic commencement at Royal Assent is often avoided to allow for orderly commencement, and to allow time for those affected to adjust to the new law before it goes live in operational terms.

However, in order to address the Committee's concerns, I am content for the commencement arrangements in the Bill in Clause 15 to require commencement of Clauses 1-10 and 12 within 12 months of Royal Assent. I am content to make an amendment to reflect this.

Clause 11, in relation to miscommunications, will remain unchanged and will be commenced by order as soon as the necessary operational procedures are in place in NI Water.

Introduction of reporting requirements in relation to commencement of Clauses 1,2, 3 and 6-12 –Agreed

As I propose to amend the commencement arrangements for clauses 1-10 and 12, I am content to introduce a requirement for reporting requirements as set out in your 4 June letter and will instruct OLC to draft an appropriate amendment.

Enhanced scrutiny procedure for regulations creating offences or penalties (Clause 2 and 3) – Agreed

The Committee has proposed that various reporting duties are put upon the Department, compelling it to undertake stakeholder consultation and prepare an explanatory document detailing the consultation undertaken and proposed changes prior to laying. I would point however that consultation documents and consultation response documents are already normally undertaken by my Department as part of the policy development and legislative process. I am content to agree to this proposal and for amendments to be drafted accordingly.

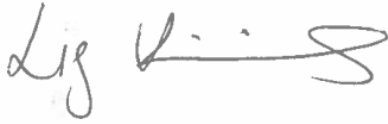
Converting selected discretionary powers to mandatory duties – Clause 2 – Not Agreed

The Committee has stated it would like some of the 'mays' changed to 'musts' with regards to the making of regulations under Clause 2.

However, given that any regulations cannot be made under Clause 2 unless a draft of the regulations has been laid before, and approved by resolution of the Assembly, which is outside of my Department's control, I am content that the clauses remain as drafted and retain the word "may".

My officials will now proceed to instruct the agreed amendments to be drafted. Once the revised text is available this will be shared with the committee along with a revised explanatory financial and explanatory memorandum, as soon as possible.

Is mise le meas,

A handwritten signature in dark ink, appearing to read 'Liz Kimmins', written in a cursive style.

LIZ KIMMINS MLA
Minister for Infrastructure