



Northern Ireland
Assembly

Committee for Communities

Report on the Cultural Property (Armed Conflicts) Bill: Legislative Consent Motion

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Contents

Powers and Membership	3
Background	4
Purpose of the Legislative Consent Motion	5
Committee Consideration	7
Links to Appendices	9

Memoranda and Papers

Minutes of Proceedings

Powers and Membership

Powers

The Committee for Communities is a Statutory Departmental Committee established in accordance with paragraphs 8 and 9 of Strand One of the Belfast Agreement and under Assembly Standing Order No 48. The Committee has a scrutiny, policy development and consultation role with respect to the Department for Communities and has a role in the initiation of legislation. The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of 5.

The Committee has power to:

- consider and advise on Departmental budgets and Annual Plans in the context of the overall budget allocation;
- approve relevant secondary legislation and take the Committee Stage of relevant primary legislation;
- call for persons and papers;
- initiate enquiries and make reports; and
- consider and advise on matters brought to the Committee by the Minister for Communities.

Membership

The Committee has 11 members, including a Chairperson and Deputy Chairperson, and a quorum of five members. The membership of the Committee is as follows:

- Colum Eastwood MLA (Chairperson)
- Michelle Gildernew MLA (Deputy Chairperson)
- Steven Agnew MLA
- Andy Allen MLA
- Jonathan Bell MLA
- Naomi Long MLA
- Nichola Mallon MLA
- Fra McCann MLA
- Adrian McQuillan MLA
- Carál Ní Chuilín MLA
- Christopher Stalford MLA

Background

1. The Cultural Property (Armed Conflicts) Bill was introduced in Westminster on 19 May 2016.
2. The Minister for Communities wrote to the Committee on 8th June 2016 advising that he intended to introduce a Legislative Consent Motion (LCM) in the Assembly as the provisions of the Westminster Bill apply to cultural property matters which are devolved to the Northern Ireland Assembly. He also stated that legal advice had confirmed this approach.
3. The Minister sought the Committee's initial views on the policy content of the proposed provisions and "*on the principle of these provisions being carried in [the] Westminster Bill*", for inclusion in his Executive paper.
4. The Department was asked to set out the rationale for using an LCM given that cultural issues are devolved here. The Committee was satisfied with the rationale for using an LCM and provided its initial views to the Minister on 16 June 2016. A link to relevant correspondence is at page 9.
5. The Committee was provided with a copy of its Report at the meeting of 15 September and agreed its Report on 22 September.

Purpose of the Legislative Consent Motion

6. Subsequent to the end of the Second World War and the massive destruction incurred across Europe as a result, the Convention for the Protection of Cultural Property in the Event of Armed Conflict was adopted at The Hague in May 1954.
 7. The aim of the Convention was to seek to afford protection to immovable and movable cultural heritage e.g. architectural monuments, works of art, books, manuscripts, archaeological sites etc.
 8. The Convention is comprised of two protocols. The first protocol agreed in 1954 details undertakings for the protection of cultural property in territory occupied during an armed conflict.
 9. The second protocol essentially enhances the protection afforded to cultural heritage, establishes offences for violations of the protocol and provides clarification on obligations to the Convention.
 10. The British Government signed the Convention in 1954 but despite committing to ratify the Convention successive British Governments have failed to do so.
 11. The Cultural Property (Armed Conflicts) Bill is designed to enable the UK to ratify the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict (the Hague Convention) and accede to its two Protocols (1954 and 1999).
 12. The Cultural Property (Armed Conflicts) Bill has six parts:
 - Part 1 - Key Definitions
 - Part 2 - Serious breaches of second protocol
 - Part 3 - Cultural Emblem
 - Part 4 - Property exported from occupied territory
 - Part 5 - Property removed for safe keeping
 - Part 6 - General
- And four schedules:
- Schedule 1 - Convention

- Schedule 2 - Regulations for the Execution of the Convention
- Schedule 3 - First Protocol
- Schedule 4 - Second Protocol

13. The Department provided the following rationale for the use of an LCM to the Committee in June 2016:

As well as Cultural Matters, the Westminster Bill contains provisions (Part 4) which mainly concern the import and export of cultural property to and from the UK. While these apply to Northern Ireland, they are not devolved matters under the Northern Ireland Act 1998 and hence are outside the legislative competence of the Assembly. It would not be possible, therefore, to bring forward the provisions by means of an Assembly Bill. Legal advice has confirmed this approach.

14. The Department is also of the opinion that Northern Ireland being included in the Bill will ensure consistency and coherence across the UK. Both Wales and Scotland have agreed the same approach.
15. The Bill will confer powers on the Department for Communities in relation to the use of the emblem in Northern Ireland and the local Minister will be in a position to influence the operation of the legislation as it relates to Northern Ireland.

Committee Consideration

16. The Committee for Communities believes that the provisions of the Bill would be a positive development towards the protection of our cultural heritage.
17. The impact of armed conflict on cultural property can be devastating and the committee recognises that the marking of cultural property with the distinctive emblem of the Convention (a white and blue shield which will carry the same protective status as the Red Cross and Red Crescent) may afford some protection to these properties.
18. The Committee therefore welcomes the British Government's decision to ratify the Convention through the Cultural Property (Armed Conflicts) Bill.
19. To that extent the Committee also welcomes the introduction of offences designed to protect cultural property in the event of an armed conflict as well as those to deter misuse of the Blue Shield.
20. The Committee also welcomes the fact that the wide definition of cultural property under Article 1 of the Convention is included in the Westminster bill.
21. The Committee was satisfied with the rationale for using an LCM rather than an Assembly Bill set out by the Department in June 2016 and referred to in paragraph 12.
22. The Committee agrees that the inclusion of Northern Ireland in the Bill will ensure consistency and coherence across the UK, noting that both Wales and Scotland have agreed the same approach.
23. The Committee notes that should the Assembly *not* pass the LCM then the Bill would need to be amended to allow the British Minister to grant permission and make designations in relation to the use of the emblem in Northern Ireland.
24. The Committee agrees that it is preferable that the Bill as drafted will confer powers on the Department for Communities in relation to the use

of the emblem in Northern Ireland and the local Minister will be in a position to influence the operation of the legislation as it relates to Northern Ireland.

25. The Committee is satisfied that the original consultation undertaken by the Department of Culture, Media and Sport in 2008 is still relevant and applicable and is content with the assessment that financial impact is expected to be minimal. The Committee is also satisfied with the Department for Communities' assessment that the extension to Northern Ireland of the relevant provisions contained in the Bill has no implications for equality of opportunity nor will it have an impact on the cultural capital of Northern Ireland.
26. The Committee therefore recommends that the Assembly endorses the principle of the extension to Northern Ireland of the Cultural Property (Armed Conflicts) Bill.

Links to Appendices

Memoranda and Papers including a summary of the Bill and a link to the full Bill can be viewed [here](#)

Minutes of Proceedings can be viewed [here](#)

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