



Northern Ireland
Assembly

**COMMITTEE FOR
ENTERPRISE, TRADE AND
INVESTMENT**

**OFFICIAL REPORT
(Hansard)**

Debt Relief Bill

3 June 2010

NORTHERN IRELAND ASSEMBLY

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ENTERPRISE, TRADE AND
INVESTMENT**

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Members present for all or part of the proceedings:

Mr Alban Maginness (Chairperson)
Mr Paul Butler (Deputy Chairperson)
Mr Gregory Campbell
Ms Jennifer McCann
Mr Gerry McHugh
Mr Daithí McKay
Mr Sean Neeson

Witnesses:

Mr Reg Nesbitt)
Mr Jack Reid) Department of Enterprise, Trade and Investment
Ms Eileen Glenn)

The Chairperson (Mr A Maginness):

The Committee now moves on to its formal clause-by-clause scrutiny of the Debt Relief Bill. Members' folders contain the relevant papers, including an updated version of the clause-by-clause analysis table. I will go through each of the nine clauses and one schedule serially to seek the Committee's position on each. Members will be giving their views on the clause as drafted in the Bill; to date, no amendments have been made by the Department or the Committee.

Clause 1 agreed to.

Clause 2 (Conditions for making a debt relief order)

The Chairperson:

Is the Committee content —

Ms J McCann:

Did you not tell me that that matter would be dealt with under subordinate legislation? Clause 2 sets out conditions that a debtor must meet in order to obtain a debt relief order. I am confused.

Mr Butler:

It is an exceptional clause.

The Clerk of Bills:

For clarity, what you have in front of you is the analysis table that the Committee has developed during its consideration of clauses, evidence-taking, and questions that members have put to the Department. The Committee has considered all the clauses. Today, the Chairperson will put the question formally on whether the Committee is content with each clause as drafted. The table in front of you is to guide you and ensure that, before you answer the question, you are content with the clause as drafted following those discussions. If a member wishes to seek further clarification or to suggest an alternative route or amendment, that is, of course, open to him or her at this point. If the Committee decides to support the clause as drafted, members could, of course, approach a Bill Clerk and table an amendment separately.

Ms J McCann:

I do not see where it states that exceptional circumstances should be included in the clause.

The Clerk of Bills:

The Department's responses relate to questions that the Committee put to it.

Ms J McCann:

On the six-year rule?

The Clerk of Bills:

Those responses should address issues that you have raised in addition to correspondence between the Committee and Department.

Mr Campbell:

Previously, we raised the issue of comparable legislation in GB, which was around a year ahead of ours, and there had not really been any time to obtain feedback on it. Obviously, when the Bill is passed, and we carry out monitoring in addition to that which is carried out in GB during the extra year it will have had by then, and feedback is obtained, at what point — be it 2011 or 2012 — would there be an opportunity to revisit any of the Bill's clauses, or not, as the case may be?

The Chairperson:

Perhaps, that is a question to put to officials.

The Clerk of Bills:

When the Committee has taken a decision during formal clause-by-clause scrutiny and issued its report on the Bill, the next opportunity to comment on or, indeed, to propose an amendment to any clause is Consideration Stage, during which an individual member, on behalf of his or her party or otherwise, can approach a Bill Clerk and table an amendment. For the Committee to revisit its decision is more complicated. Normally, during formal clause-by-clause scrutiny, the Committee signs off its position on the Bill.

Mr Campbell:

That is not what I asked. Assuming that the Bill is passed —

The Chairperson:

It goes through, yes.

Mr Campbell:

If, say, by June 2011, after the Assembly election, problems have emerged either following monitoring in Northern Ireland or in information that comes from GB — which, at that point, will have had two years' experience while we will have had one year's experience of a debt relief Act under our belts — what would it take to insert amendments at that point or beyond?

The Chairperson:

Could I ask departmental officials to come forward to advise the Committee on that point?

Mr Reg Nesbitt (Department of Enterprise, Trade and Investment):

Chairman, there will be a three-year review when the Bill is enacted. Obviously, in the interim between enactment and that three-year review, if GB makes any changes to its legislation, we will look at that and will probably enact any changes that it makes before the three years are up.

The Chairperson:

Would there be an opportunity to amend the legislation before the three-year period expires?

Mr Nesbitt:

Yes.

Mr Campbell:

That answers any queries that I had, Chairperson. I am content as long as there is an opportunity to address any problems that might emerge.

Ms J McCann:

My concern is about the exceptional circumstances with regard to the six-year rule. The Bill clearly states that people who have already obtained a debt relief order within a six-year period cannot apply for another one. I raised that concern at the last meeting, and nothing has changed. Will that clause be agreed as it stands?

Mr Nesbitt:

At our meeting last week, the Committee asked us to write to the Insolvency Service in GB, which we duly did. The response that we received is with the Minister.

The Committee Clerk:

That response is included in members' papers.

Ms J McCann:

I ask that something about exceptional circumstances be included in that clause.

The Chairperson:

That cannot be done at this stage, can it?

The Clerk of Bills:

Any member can put a proposal to the Committee to recommend that the Committee seeks an amendment to that clause. That is the first question that the Chairperson would put; that the Committee supports or otherwise the proposal from the member to recommend an amendment.

Ms J McCann:

Can I put that proposal?

The Chairperson:

Yes, of course. That proposal is noted.

Mr Nesbitt:

Chairperson, you may want to read the Minister's response before making the decision on whether an amendment should be tabled.

The Chairperson:

We will look at what we have here.

Mr Butler:

Is that the tabled response?

The Committee Clerk:

Yes.

Ms J McCann:

Is the Minister's response in the members' packs as well?

The Committee Clerk:

It is the Department's response.

The Chairperson:

The response is from Mr Woodhead, who is the head of the policy unit of the Insolvency Service.

Mr Campbell:

Is that response labelled appendix 1?

The Chairperson:

Yes.

Mr Campbell:

Is that the letter that, at the bottom of page 2, asks:

“Has anyone in England or Wales challenged the six-year limit?”

It says that the answer is no.

The Chairperson:

Yes. It might be worthwhile going through the letter. It refers to the letter dated 24 May, which raised four main issues, the first being the time limit for reapplying to the debt relief scheme. The letter asks:

“If it is now considered that provision should have been included in the Debt Relief legislation permitting early re-application to the Debt Relief scheme in exceptional circumstances?”

The answer is given:

“We still feel that allowing a 6 year ban on re-entry is appropriate, the period was arrived at after extensive consultation and we believe it strikes the right balance between providing access to the procedure and ensuring that there is no abuse. A further advantage of specifying such a provision is that it is easy to understand and enables the entry costs to be kept at a low level because no person has to make a subjective decision on what could count as an exceptional circumstance and this would add significant cost to the process.”

That is the Department’s rationale for sticking with what is proposed.

The following questions are answered:

“If any other problem with the provision barring re-entry to the scheme for six years has been identified?

No.

If there was an omission in the legislation as regards this point how was the omission made

Not applicable.

Are there any plans to amend or alter the provision?

No.

Has anyone in England and Wales challenged the six year limit for re-entry to the scheme and if so what was the outcome?

No one has challenged this provision.”

That seems to deal with the six-year ban and the exceptional circumstances.

Ms J McCann:

I accept what is being said. We talked previously about the system being open to abuse. However, there could be special circumstances under which people need to obtain a second debt relief order. Having something about exceptional circumstances included in the Bill would provide security for those people.

The Chairperson:

Yes.

Ms J McCann:

The legislation is supposed to protect vulnerable people. I see no answers there. There is no detail on the cost, and, just because no one in England and Wales has challenged the provision, that does not mean that we cannot.

The Chairperson:

Do any other members have views on that?

Mr Campbell:

As I said, I am content with what we have, providing that, if any legitimate queries that can be substantiated emerge, those can be addressed under the three-year review. There have been no challenges yet. However, in the next couple of years there may be challenges. At least we know that this is not a closed book.

Mr Butler:

Mr Nesbitt said that that letter is not from the Minister; it is a reply that was sent to the Minister. Should we ask for the Minister's views on the inclusion of exceptional circumstances in the clause? We do not actually know her view.

The Chairperson:

We do not have her formal view. However, I suspect that it would be supportive of the Bill as drafted.

Mr Butler:

It may well be. However, the issue has been raised by the Committee.

The Chairperson:

We can ask for her views.

Mr Campbell:

Where does that leave the timing of the Bill?

The Committee Clerk:

Perhaps we should park this clause.

The Chairperson:

Can we do that?

The Clerk of Bills:

Yes.

The Chairperson:

At least one member has strong views in relation to the inclusion of exceptional circumstances. We can park the issue. I do not believe that it will prejudice the progress of the legislation. We can still proceed and deal with the other clauses.

The Clerk of Bills:

The question can be put formally on the other clauses subject to any consequential amendments that may be required if an amendment is made to clause 2.

The Chairperson:

The best way of dealing with clause 2, from Ms McCann's point of view, is to put forward an amendment.

The Clerk of Bills:

Yes.

The Chairperson:

That gives you an opportunity to do that.

Ms J McCann:

In no way am I trying to prevent the Bill from going through. I am conscious that it needs to go through in a timely manner, but I want to ensure that it offers protection for everyone.

The Chairperson:

There is no need to be apologetic. That is your view as a legislator, and the Committee is right to put forward such views. We should proceed with the rest of the clauses. We will park clause 2 and come back to it.

Mr Neeson:

We could come back to it at a special meeting next week if necessary.

The Chairperson:

Yes; we could do that.

Clause 2 referred for further consideration.

Clauses 3 to 9 agreed to.

Schedule agreed to.

Long title agreed to.

The Chairperson:

That has all been agreed subject to any consequential amendments that might arise from an amendment to clause 2. Is everyone clear?

Mr Neeson:

In order not to delay the legislation, I suggest that, if necessary, we call a special meeting for next Monday or Tuesday. It will also be subject to the Minister's response.

Mr Butler:

Are we going to seek a response from the Minister?

The Chairperson:

I think that we should seek the Minister's view. It may be that the Minister's view is as stated in

the Bill.

Mr Campbell:

Imagine that.

The Chairperson:

I assume that to be the position, but we need to ask the Minister nonetheless. The Minister will be aware of the arguments that Ms McCann has raised quite properly. The Minister may have a different view as a result; I do not know. That completes this item of business.