



Northern Ireland  
Assembly

Committee for the Office of the First Minister  
and deputy First Minister

# OFFICIAL REPORT (Hansard)

Antarctic Bill: OFMDFM Briefing

6 February 2013

# NORTHERN IRELAND ASSEMBLY

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**Members present for all or part of the proceedings:**

Mr Chris Lyttle (Deputy Chairperson)  
Mr Colum Eastwood  
Ms Megan Fearon  
Mrs Brenda Hale  
Ms Bronwyn McGahan  
Mr Stephen Moutray  
Mr George Robinson

**Witnesses:**

Mr Jim Hamilton	Office of the First Minister and deputy First Minister
Mr Neill Jackson	Office of the First Minister and deputy First Minister

**The Deputy Chairperson:** The legislative consent memorandum was laid in the Business Office on 25 January and stands referred to the Committee by the Standing Orders of the Assembly. We have 15 working days from that date to consider the relevant provisions of the Antarctic Bill and report to the Assembly on it.

The Bill extends to Northern Ireland and includes a provision to make the regulation of activities in the Antarctic an excepted matter, as this alters the legislative competence of the Assembly legislative consent motion as required.

I welcome the officials to the meeting and invite them to make their briefing.

**Mr Neill Jackson (Office of the First Minister and deputy First Minister):** As you have just said, the First Minister and deputy First Minister have laid a legislative consent memorandum before the Assembly seeking support for a legislative consent motion on the extension of the Westminster Antarctic Bill to Northern Ireland. The Bill includes a provision that the regulation of activities in Antarctica be made an excepted matter in our devolution settlement.

The basic legislation for this is the Antarctic Act 1994, which implemented the Protocol on Environmental Protection to the Antarctic Treaty. This, effectively, established a regulatory and permitting regime for all British expeditions and nationals wishing to travel to Antarctica, and it applies to the UK as a whole.

The purpose of the Bill under way in Westminster is to implement a new annex to the protocol that relates to the prevention of and response to environmental emergencies in the Antarctic and includes proposals to enhance environmental protection, particularly for marine plants and invertebrates.

The key issue, however, is the reclassification of Antarctic matters as excepted in our devolution settlement. To date, all legislation on the regulation of such activities has been made on a UK-wide basis, and all the relevant functions have been carried out by the UK Government through the Foreign Office. However, during the drafting of the current Antarctic Bill, it was identified that the Antarctic and the subject matter of the Antarctic Act 1994 had inadvertently been devolved to the legislatures in Scotland and Northern Ireland. In our case, that meant that the matter of the regulation of activities in the Antarctic was omitted from schedule 2 to the Northern Ireland Act 1998.

The UK Government now wish to rectify this on the basis of the need for a single, coherent regulatory approach to their international obligations under the Antarctic Treaty. Subsequently, and with the consent of the Scottish Parliament, they have made this a reserved matter as far as Scotland is concerned by means of the Scotland Act 2012.

Although the matter, therefore, is technically devolved to the Northern Ireland Assembly, no relevant functions were transferred with it, and no Department has any legislative powers in relation to the Antarctic. An Assembly Bill would probably be required to confer such powers were that ever considered necessary.

Having considered the UK Government's request, the First Minister and deputy First Minister believe that there is no compelling reason to argue for the continued devolution of Antarctic matters. Having now obtained the agreement of the Executive to do so, they propose to seek the agreement of the Assembly that the matter of the regulation of activities in Antarctica be made an excepted matter in schedule 2 to the Northern Ireland Act 1998.

They, therefore, seek the support of the Committee for the legislative consent motion, which is required to ensure that the Antarctic Bill continues to extend here and that, in future, all regulation of activities in Antarctica is removed from the legislative competence of the Assembly. I hope that we will be able to clarify any points arising from that.

**The Deputy Chairperson:** Thank you very much indeed. Do members have any questions, or, having heard from officials, are we broadly content to support the legislative consent motion?

**Mr Moutray:** Chair, I think that we will all sleep easier in our beds at night when this is put right.

**The Deputy Chairperson:** So there are no strategic interests in Antarctica.

Are members content to let that pass?

*Members indicated assent.*

**The Deputy Chairperson:** Thank you very much for that information, gentlemen. It is much appreciated.

OK, members. Now that we have resolved the Antarctic issues, the Committee Clerk will prepare a short draft report to the Assembly reflecting our views for approval at our meeting on 13 February.