



Northern Ireland
Assembly

Committee for Social Development

OFFICIAL REPORT (Hansard)

Charities Bill: Proposed Amendment to
Clause 3

18 October 2012

NORTHERN IRELAND ASSEMBLY

Committee for Social Development

Charities Bill: Proposed Amendment to Clause 3

18 October 2012

Members present for all or part of the proceedings:

Mr Alex Maskey (Chairperson)
Mr Mickey Brady (Deputy Chairperson)
Ms Paula Bradley
Mr Gregory Campbell
Mrs Judith Cochrane
Mr Sammy Douglas
Mr Mark Durkan
Mr Fra McCann
Mr David McClarty

Witnesses:

Ms Vera McCann	Department for Social Development
Ms Andrea Watson	Department for Social Development

The Chairperson: We will now move to the Charities Bill report. The Department advised us yesterday that it is minded to propose an amendment to clause 3, which relates to insolvency. It is considering doing that at Consideration Stage. Andrea Watson from the Department is here. I will set the scene. The Committee agreed its report last week and is here to sign off on it this morning. We were then advised that the Department identified a potential difficulty and may propose an amendment at a later stage. As a Committee, we cannot reopen this now, because we have nothing to reopen it with. We are not aware of the issue and we are not aware of the amendment the Department is likely to propose, but we look forward to hearing from Andrea. Good morning.

Ms Andrea Watson (Department for Social Development): Good morning. Thank you, Chair and Committee members for the opportunity to bring to your attention to a possible amendment to the Charities Bill in addition to the amendment to clause 9, which was agreed to last week by the Committee.

It is not unusual for the need for an amendment to arise following the introduction of a Bill, or indeed, after Committee Stage. Given that the Committee is about to publish its report on the Charities Bill and Committee Stage is due to finish next Tuesday, we thought it important to give you early notice of the potential amendment.

There are no implications for the public benefit provisions, which are the primary focus of the Bill. We previously made you aware that the Bill carried a number of other amendments, for example, to update company law references and other changes to charity law that have taken place in England and Wales. This potential amendment would be a similar non-contentious one.

I refer the Committee to clause 3, which the potential amendment relates to. Clause 3 amends section 86 of the Charities Act (Northern Ireland) 2008. Section 86 is already in operation. Clause 3 extends the lists of persons disqualified from being trustees of a charity to include a person who is the subject of a bankruptcy restrictions order or an interim order. The inclusion of that provision in clause 3 updates the 2008 Act to mirror the relevant section of the Charities Act 2011, which is the law in England and Wales. As you know, the 2008 Act follows very closely the charity legislation of England and Wales.

Late last Thursday, on our return from Committee, we received notice from the insolvency branch of the Department of Enterprise, Trade and Investment (DETI) that an amendment had been made to the Charities Act 2011. For the record, the amendment was made by the Tribunals, Courts and Enforcement Act 2007 (Consequential Amendments) Order 2012, which I will refer to as the 2012 order.

This came into force very recently — 1 October 2012. The 2012 order relates to insolvency law, which the Chair referred to, and, in particular, debt relief orders. In short, the change to the Charities Act 2011 further extends the list of persons disqualified from being trustees of a charity in addition to those picked up by clause 3 of our Bill to include persons subject to a moratorium period under a debt relief order, a debt relief restrictions order or an interim order under the Insolvency Act 1986.

DETI also advised us that the words "interim order" in clause 3 are not appropriate to the equivalent Northern Ireland legislation. It has, therefore, asked us to consider dropping those words from the Bill.

We have spent the past three days corresponding with DETI to investigate the effect of the amendment on the 2011 Act and its implications for the 2008 Act. We need just a couple more days to complete this exercise.

If it is confirmed that the amendment is required — we think it will be — our initial assessment is that the best course of action would be to table a departmental amendment to clause 3 at Consideration Stage. If it is not possible to carry the amendment with the Charities Bill, we would propose to work with our DETI colleagues to ensure that the amendment is carried when DETI replicates the 2012 order for Northern Ireland. However, it could take up to one year before DETI is in a position to bring forward the statutory rule to make the amendment, and the amendment would end up sitting in a piece of insolvency legislation rather than in the Charities Act.

I appreciate the fact that I referred to lots of legislation this morning. It is, therefore, our intention to write to the Committee formally to clarify the issue in detail and confirm the Department's preferred handling as a matter of urgency. We will keep the Committee fully informed about the scheduling of Consideration Stage in that written submission.

Thank you again for giving us the time to bring this matter to your attention. If you have any questions, Vera and I will attempt to respond.

The Chairperson: OK, Andrea, thank you for that. Does anybody need to ask anything on that? If not, are members content?

Members indicated assent.

The Chairperson: Andrea, thank you.

Ms Watson: Thank you.