



Northern Ireland
Assembly

Committee for Culture, Arts and Leisure

OFFICIAL REPORT (Hansard)

**Finance Bill 2012: Donation of Culturally
Valuable Objects in Lieu of Tax**

19 April 2012

NORTHERN IRELAND ASSEMBLY

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Finance Bill 2012: Donation of Culturally Valuable Objects in Lieu of Tax

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Members present for all or part of the proceedings:

Miss Michelle McIlveen (Chairperson)

Mr William Irwin (Deputy Chairperson)

Mrs Brenda Hale

Mr David Hilditch

Mr Michael McGimpsey

Mr Cathal Ó hOisín

Mr Robin Swann

Witnesses:

Ms Catherine Martin

Department of Culture, Arts and Leisure

Mr David Polley

Department of Culture, Arts and Leisure

The Chairperson: I am sure the officials from the Department will be very enthusiastic.

Ms Catherine Martin (Department of Culture, Arts and Leisure): Yeah, I will make this as interesting as possible. This is your briefing on the legislative consent motion (LCM) for the part of the Finance Bill 2012 that deals with the donation of culturally valuable objects in lieu of tax. It is not very catchy.

The Chairperson: I refer members to the letter from the Minister in their information packs, which is about her intention to seek Executive approval for the introduction of a LCM, enabling the Department to have a role in a scheme intended to encourage philanthropy and charitable giving in the event that the objects relate to Northern Ireland. Officials here today will brief us, and the Minister has asked for Committee comments by Friday 20 April for clearance by the Executive on 26 April. That is a tight timescale. Perhaps in your introduction, you will explain why it is such a short timescale.

Mr David Polley (Department of Culture, Arts and Leisure): Thanks for agreeing to schedule this briefing at such short notice. Catherine and I are the officials in the Department of Culture, Arts and Leisure's (DCAL) museums and libraries branch who are taking forward work on the legislative consent motion. Our Minister has written to indicate that she intends to bring a legislative consent motion to the Assembly, and we have provided a written briefing note to the Committee secretariat and are very grateful for the chance to come here today to discuss the issue. This is a preliminary consultation before we seek Executive approval to lay the legislative consent motion. The Committee will have a further chance after that to do a more detailed examination if it wants.

The Westminster Government is proposing to introduce several schemes intended to encourage a culture of philanthropy and charitable giving. Some relate to reducing tax for people or organisations who give to charity. The legislation to allow those is in the Finance (No. 4) Bill, which was laid before the Westminster Parliament at the end of March. The scheme that we are here to talk about will reduce tax liabilities for people who gift pre-eminent property to the nation. It goes by the name of the cultural gifts scheme.

The scheme will reduce the tax of individuals or organisations, including businesses, that gift culturally important items to institutions where they will be held in trust for the public. For example, if a company wishes to donate art work to National Museums, or an individual wishes to donate an archive to the Public Record Office of Northern Ireland (PRONI), there is scope to have their tax liability reduced by a proportion of the value of the items being donated. Tax is a reserved matter. The coalition Government in Westminster have decided to introduce the scheme, and they have already done a lot of the work needed to put it in place. However, one aspect of the legislation will give DCAL an additional function, so we need an LCM from the Assembly.

To be accepted under the scheme, the relevant Minister must agree that the object or group of objects in question is pre-eminent. If the object relates to Northern Ireland, the relevant Minister will be the Minister of Culture, Arts and Leisure. This is a proposed new duty for DCAL set out in paragraphs 22 and 23 of schedule 14 to the Finance Bill.

Some of you might also be aware that, elsewhere in the 700-page Finance Bill, there is a section relating to air passenger duty. That is also subject to a different LCM, which is being taken forward by the Department of Finance and Personnel (DFP).

So, we are going to take forward work on the LCM in line with Assembly Standing Order 42A. The Minister's letter asked for your initial views by tomorrow so that they can be incorporated into the submission to the Executive, which we would like to circulate as the next step of the process. We would like to bring that submission to the meeting on 26 April. If we miss that date, it will be the meeting of 3 May.

Pending Executive agreement, we will lay the legislative consent motion and supporting memorandum in the Assembly. At that point, it will be referred to the Committee, and you will be asked to carry out whatever examination of the proposal you see fit and report to the Assembly. You might want to talk to us again at that point. The final step is the LCM being debated in a plenary meeting of the Assembly.

The LCM relates to the legislation that is going through Westminster. The legislation essentially states that the Department for Culture Media and Sport (DCMS) will create a scheme that allows for a reduction in tax. DCMS has also started to draft the scheme and has consulted on a draft version of it. There is a lot more practical detail in the scheme about how the proposal would work out in detail. There is scope beyond the LCM process to have some influence on the scheme.

That is an overview, and we are very happy to answer any questions.

The Chairperson: Thank you. You have already carried out an equality screening of the proposal. What were the outcomes of that?

Mr Polley: We thought that the legislation would impact on three types of bodies. First, companies that might want to offset something against tax. Secondly, high-net-worth individuals who, again, possess things that they might want to offset for tax reasons. Thirdly, people who have increased access to cultural objects and visit museums, galleries and libraries. Companies were not really within the scope of the equality screening process, and we did not have any information about the types of people who might want to donate, so we focused on the people who use our museums and galleries. We took the view that the proposal would have a positive impact on people and would serve to broaden access to cultural objects and, depending on how it panned out, potentially broaden the use of our cultural institutions as they broaden their collections, which become more relevant as they develop and keep up to date.

The Chairperson: Have you done any consultation to date with the museum bodies and the Arts Council?

Ms Martin: We did some informal consultation with National Museums NI, the Northern Ireland Museums Council and PRONI, who would be the likely recipient organisations of any donation. They have not identified any significant issues or concerns with the proposal, although it has been hard to determine what the demand will be on the scheme. PRONI and National Museums have indicated that, while they have received donations, those have primarily been on loan, and it was hard to determine whether the individuals loaning the items would be prepared to donate them, because when they are on loan, they retain the ownership of them and PRONI and National Museums are just the custodians.

Mr Polley: We will do a bit more consultation with other potential beneficiaries, for example, the National Trust. You mentioned the Arts Council of Northern Ireland, which is an organisation that we have not talked to and is not necessarily a potential beneficiary.

The Chairperson: You might talk to representatives of the Arts Council just in case it has any links with bodies that may have had an interest.

Mr Polley: We can talk to them.

Mr Ó hOisín: I have a couple of points that I would like clarification on. The paper refers to donations "to the nation". What does "to the nation" mean? The second one is the definition of "other thing" in respect of an object of historic or artistic interest. I am thinking particularly of the conversations that we had about archeological finds that are in private ownership and about whether they should sit with PRONI or National Museums.

Mr Polley: "To the nation" essentially means that the public must have access to such objects. The scheme proposes that the institution that receives an object will have to display it to the public for at least 100 days a year. The institution that receives an object has to hold it in trust for the people and is not able to sell it on, for example. The public must have access to it.

Mr Ó hOisín: That is in the North?

Mr Polley: Yes. It applies to objects donated to institutions.

Mr Ó hOisín: What about the definition of "other thing" in respect of objects of historic or artistic interest or those particularly associated with a significant building?

Ms Martin: That relates to the determination of whether an object or collection of objects is pre-eminent. A panel established by the Arts Council England already sits on acquisitions in lieu of inheritance tax. The panel comprises a number of experts, including those from the devolved Administrations, who can make a judgement on whether an object is of national significance in respect of its historic, scientific or artistic elements and whether it should be accepted on to the scheme. It considers any application and makes a recommendation to the relevant Minister. The relevant Minister then either agrees to the recommendation or declines acceptance of the object on to the scheme. That is not quite what you were asking.

Mr Polley: There is Northern Ireland representation on that panel. Were you asking more specially about historic buildings?

Mr Ó hOisín: No. In Committee, we discussed the issue around objects found during archeological excavations, in relation to planning etc, that are now in private storage and private hands without being archived, so no one knows what is there. I was just wondering about the relevance of such objects. Some of the companies are saying that they want to give away what they have.

Ms Martin: If they wanted to offer them to the scheme, they would have to go to the panel. If the objects were accepted on to the scheme, the companies would be eligible for relief of 20% on their corporation tax. That option is open to them if they want to avail themselves of it.

Mr Polley: However, the objects have to fall within the definition of "pre-eminent". I have done a bit of work on the archeological archives, and I am not sure that too many of them would fall within that definition, although particular ones might.

Mr Ó hOisín: I understand that.

Mr Polley: It might be a way of helping to get an object from private ownership. Another part of it is that, if something is found on your land, it remains in private ownership. So, this might be a way of getting those things into public ownership, because companies can offset them against their tax rather than having to buy them.

The Chairperson: That is part of the problem; getting to that stage.

Mr Ó hOisín: It is.

Mr McGimpsey: Very briefly. This is about UK finances and is an excepted matter, so if we decide that we do not want it, it will not make an awful lot of difference. Is that not right? England, Scotland, Wales and Northern Ireland — it is a national thing. Are the proposals for Northern Ireland any different at all from the proposals for Scotland, England and Wales?

Mr Polley: No. They will be different only if we do not have a legislative consent motion. Otherwise, they will be the same. If we do not have a legislative consent motion, the Minister for Culture, Media and Sport will decide whether an article in Northern Ireland is pre-eminent. Further to that, we will not really have any engagement with the process before that, which will give us an opportunity to maybe spot some things on offer that we would like.

Mr McGimpsey: What do you mean "spot something"? Do you mean and con artists and stuff like that?

Mr Polley: Somebody who is proposing to donate an object can say where they want it to be held. For example, they could say that they want it to be held in the Ulster Museum. However, some people do not say where they want objects proposed for donation to be held. They basically ask around to see who wants to look after them, and we would want to be engaged in that process.

Mr Swann: Paragraph 4 of your submission states that "a proportion of the value" can be offset against the item. Is there any guidance on what proportion that is?

Ms Martin: An individual who makes a donation can offset 30% of the value of the object against either capital gains tax or income tax. They can choose to do that over a number of years, up to five years, so that they can enjoy the benefit of that relief. For a corporation, the figure is 20% and that must be taken in the year in which the object is registered.

Mr Swann: Is a maximum value applied to the donated item?

Ms Martin: No.

Mr Polley: There is a maximum for the entire scheme, but not for an individual object. However, essentially, that means that the maximum would be £30 million.

Mr Swann: For the scheme?

Mr Polley: That is for the whole scheme.

Mr Swann: In Northern Ireland or the UK?

Mr Polley: For the whole UK.

Ms Martin: That includes the acquisition in lieu of inheritance tax scheme as well. The total value of the two schemes is £30 million a year.

Mr Polley: That is £30 million offset against tax, so that is the 20% or 30% that it would be.

Mr Irwin: The draft scheme refers to the role of the panel in making recommendations in applications to the scheme, and the Arts Council informs applicants of the decision and how tax reductions will be applied. Will that be a local panel and our Arts Council?

Mr Polley: No, that refers to the Arts Council in England, which recently took on that role from the Museums, Libraries and Archives Council.

Mr Irwin: Will the Arts Council in England notify applicants in Northern Ireland?

Ms Martin: Yes.

Mr Polley: Yes; Northern Ireland has input to that panel. If a particular object requires more expertise, for example from an archaeologist who knows about Irish archaeology, the panel will come and seek further expertise as necessary.

Mr Irwin: The panel will not be local, then, either? You said that the panel that looks into this will be local.

Ms Martin: No. The panel will be that already established by the Arts Council England, but it can co-opt or seek additional expert opinion as required.

Mr Irwin: OK.

The Chairperson: Thank you very much for attending. The Committee will be in contact with the Department by tomorrow.

In light of what we have heard, are members content for the Department to continue the process?

Members indicated assent.