Northern Ireland Assembly

Committee for Communities

Report on the Support for Mortgage Interest etc. (Security for Loans) Bill

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Report: NIA 162-17/22 Committee for Communities

Mandate 2017 – 2022 **Eleventh Report**

Contents

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 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 of Communities.

Membership

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

- Paula Bradley MLA (Chairperson)
- Kellie Armstrong MLA (Deputy Chairperson)
- Andy Allen MBE MLA
- Stephen Dunne MLA
- Mark Durkan MLA
- Paul Frew MLA
- Ciara Ferguson MLA
- Áine Murphy MLA
- Aisling Reilly MLA

List of Abbreviations and Acronyms used in this Report

SCR	Statutory Charge Register
SMI	Support for Mortgage Interest
JSA	Income-based Job Seekers' Allowance
ESA	Income-related Employment and Support Allowance
OLC	Office of the Legislative Counsel
DSO	Departmental Solicitor's Office
MLA	Member of the Legislative Assembly of Northern Ireland
RaISe	NI Assembly's Research and Information Service
DfC	Department of Communities
The Assembly	The Northern Ireland Assembly
The Committee	The Committee for Communities
The Department	The Department for Communities

Executive Summary

1. This report sets out the Committee for Communities’ consideration of the Support for Mortgage Interest etc. (Security for Loans) Bill.

2. The Bill consists of two clauses. The first allows regulations to impose a charge on the property in respect of which a Support for Mortgage Interest loan is made, and provides for charges securing Support for Mortgage Interest loans to be registrable in the Statutory Charge Register. The second deals with the commencement date for, and the short title of, the Bill.

3. The Committee requested evidence from interested organisations and two written submissions were received.

4. The Committee took briefings from the Minister, Departmental Bill Officials and the Law Society and considered additional letters and papers throughout the process as necessary.

5. In total, the Committee held 1 oral evidence session with an interested organisation and explored the issues raised in the written and oral evidence with Departmental Officials through oral briefings and written responses. The Committee then considered and deliberated on the provisions of the Bill at 3 meetings, concluding with its formal clause by clause consideration at the meeting on 8 February 2022.

6. After much discussion with Officials concerning the objectives of the Bill; the detail of an SMI loan; the processes of registering and removing the statutory charge; and how and when an SMI loan is repaid, the Committee was content with the Bill as drafted.

Introduction

7. The Support for Mortgage Interest etc. (Security for Loans) Bill was referred to the Committee in accordance with Standing Order 33 on completion of the Second Stage of the Bill on 16 November 2021.

8. The Minister for Communities made the following statement under section 9 of the Northern Ireland Act 1998: “In my view the Support for Mortgage Interest etc. (Security for Loans) Bill would be within the legislative competence of the Northern Ireland Assembly.”

9. The stated purpose of the Bill is to protect owner-occupiers receiving an income-related benefit from the threat of repossession.

10. During the period covered by this Report, the Committee considered and deliberated on the Bill and related issues at 4 meetings. The relevant Minutes of Proceedings for these meetings are included at Appendix 4.

11. The Committee had before it the Support for Mortgage Interest etc. (Security for Loans) Bill (NIA 162/17-22). Following the introduction of the Bill on 08 November 2021, the Committee wrote to key stakeholders and inserted public notices in the Belfast Telegraph, Irish News and Newsletter seeking written evidence on the Bill by 12.00pm on 14 December 2021.

12. A total of two responses were received to the call for evidence. These are included at Appendix 6.

13. The Committee commissioned the NI Assembly Research and Information Service (RaISe) to provide research on the content and implications of the Bill. Research papers are included at Appendix 7.

14. After the Bill completed its Second Stage on 16 November 2021, the Committee arranged to take oral evidence on the Bill from the Department and the relevant stakeholder. This session took place on 27 January 2022. The Committee heard from:

    - Law Society of Northern Ireland

- Department for Communities

15. Committee deliberations on the clauses and the formal Clause by Clause scrutiny of the Bill were completed at the meeting on 8 February. The relevant Minutes of Evidence of these meetings are included in Appendix 5.

16. The Committee considered its draft report at its meeting on 10 February 2022. The Committee agreed its report on the Bill and ordered it to be printed.

Context and Overview of the Bill

17. The contextual information in this section is largely extracted from the RaISe paper, the written evidence provided by Law Society of Northern Ireland and Housing Rights.

18. The format of Support for Mortgage Interest changed from a benefit to an interest-bearing loan in 2018 under ***Statutory Rule No. 176 The Loans for Mortgage Interest Regulations (Northern Ireland) 2017***.

19. This means that (unless a default event occurs), a loan is only recoverable from any equity on the sale or transfer of ownership of the property or when the claimant (or their partner) dies. If there is insufficient equity to repay the total of the loan after sale/transfer/death, the Department will write off any amount that cannot be repaid.

20. Support for Mortgage Interest (SMI) is to protect owner-occupiers who are currently in receipt of income-related benefits from repossession. Originally this financial support was in the form of a benefit that owner-occupiers received automatically. However, when it changed to a loan under the above regulations, it became recoverable; that the repayment (with interest) could potentially come from the equity on the sale of a property when the claimant (or their partner) dies.

21. The loan is subject to interest payable which has the potential to fluctuate, but is capped at two annual changes per annum.

22. Those eligible to apply are home-owners in receipt of;

- Income Support
- Income-based Job Seekers' Allowance (JSA)
- Income-related Employment and Support Allowance (ESA)
- Universal Credit
- Pension Credit

23. The Department for Work and Pensions launched a call for evidence for a potential change from benefit to a loan in 2011 that would be recouped by placing a charge on recipients' property mirroring the processes of other Government Departments. There was public objection to this potential change; Citizen's Advice claimed that it had the potential to undermine the mortgage safety net aimed at preventing arrears and repossessions, while Shelter doubted if this change would deliver value for money.

24. Following the 2015 General Election the Conservative government stated that as of April 2018 SMI would become an interesting-bearing loan secured against property.

25. The Northern Ireland Act 1998 required the Secretary of State for Work and Pensions to work hand-in-hand with the Northern Ireland Minister for social security to secure a single system for social security across the UK. This led to the ***Welfare Reform and Work (Northern Ireland) Order 2016*** which created a framework regarding loans for mortgage interest in Northern Ireland. The Regulations that accompany the 2016 Order (***Statutory Rule No. 176 The Loans for Mortgage Interest Regulations (Northern Ireland) 2017***) stated that loans would be secured against the claimant's property through a charge against that property.

26. The significant difference in land law between GB and Northern Ireland (NI) has led to difficulties in securing protections on loans in NI. To overcome the differences in land law between GB and NI this Bill provides for regulations to impose charges on the property in respect of which a SMI loan is made. Also, the Bill provides for charges that will secure SMI loans to be registerable in the Statutory Charges Register.

27. In its written submission to the Committee, the Law Society of Northern Ireland states that this Bill addresses the issue of registered and unregistered land meaning the Department for Communities does not have to investigate if the title is registered or not.

28. Also, the application for registration of the statutory charge can potentially be made even where all of the legal owners are not within the benefit unit.

29. The Explanatory and Financial Memorandum that accompanies this Bill defines a statutory charge as

> *"a way of protecting a restriction over a property (and enabling purchasers to find out about the restriction), and is for the most part created or in favour of government departments or local authorities".*

30. The Committee noted, within the Law Society of Northern Ireland's submission, that statutory charges for repayments are not typically encountered in practice and that the proposed level of security for SMI loans could potentially lead to changes in conveyancing practice.

31. The Law Society has called for the ongoing importance of any qualifying loan and its security to be recognised and maintained. It highlighted the different types of statutory charges and that some charges are not charges for monies to be repaid, therefore communication is key; to ensure all relevant stakeholders have sufficient notice.

32. Within its submission to the Committee, Housing Rights reflected on the impact of COVID-19 and the number of homeowners who could potentially fall behind on their mortgage repayments due to loss of employment.

33. Housing Rights provided stark statistics regarding NI homeowners and how a wider economic downturn will impact on NI as it has the largest number of homeowners in poverty across the United Kingdom. Twice as many households in NI are in arrears compared to the rest of the UK; NI households with mortgages had more than three times the incidence of negative equity than those across the UK, and; working households form the majority of households struggling with mortgage debt and thus are unable to claim any help with housing costs.

34. Reflecting upon the evidence provided by the Law Society of Northern Ireland the Committee called upon the Department for Communities to explain in detail the process for repaying an SMI loan providing the timeline and detail of the removal of the charge on a property.

Consideration of the Bill

35. The purpose of the Support for Mortgage Interest etc. (Security for Loans) Bill is to protect owner-occupiers receiving an income-related benefit from the threat of repossession.

36. The Committee's consideration of the clauses of the Bill was informed by the written and oral evidence it received. The Committee received two written submissions in response to its call for evidence and conducted 1 oral evidence session.

37. The Committee also had ongoing engagement with Departmental Officials throughout its consideration of the Bill and explored the issues raised in evidence during departmental evidence sessions and by correspondence.

38. A summary of key evidence points on each clause and the Committee's consideration of the issues raised in this evidence is set out below.

Clause 1: Security for loans for mortgage interest etc.

39. Clause 1 makes provision for the Department for Communities to now include the power to charge a loan (and the interest on it) on the property in respect of which the Department makes the loan within its power to make regulations about SMIs.

40. The changes also mean that a charge created by regulations in respect of a loan provided by the Department will be registerable on the on the Statutory Charge Register.

41. Key issues and queries raised in evidence in relation to the Clause are summarised as follows:

    - The primary query raised sought clarity on retrospective application i.e. that a statutory charge will be placed on the 541 properties whose legal owners are in receipt of SMI but were up to this point in receipt of an unsecured loan.

- It is unclear if legal opinion has been sought as to the sufficiency of these measures in retrospectively amending the terms of a loan agreement.

- There is also a question as to whether it is fair to retrospectively amend the terms of a loan agreement.

- Concerns about the impact on homeowners who may be struggling to meet their mortgage payments. The threat of an economic downturn is of particular concern for homeowners in NI where there are a higher percentage of marginal home owners, and a remaining legacy of higher levels of negative equity.

- Concerns were raised regarding the successive changes to SMI which were made by the Westminster government between 2013 and 2018 which have weakened SMI as a safety net. These changes include;

    - Change in eligibility for SMI under Universal Credit.

    - Extension of waiting period from 13 to 39 weeks.

    - Reduction in SMI Rate

    - Conversion of SMI from a benefit to an interest-bearing loan.

- The Department needs to confirm if it is separately considering what (if any) interventions can be made at an NI level to mitigate the impact of this policy. Notwithstanding the issue of parity, would Department consider intervening in some way to e.g. reduce or remove the impact of the waiting time to access SMI, for example.

- The proposed change by the Department to a method of security for repayment of monies using a statutory charge has potential unintended consequences for conveyancing practice. Security for loans/monies owed are typically by way of. mortgage registered in the Registry of Deeds for unregistered land and by way of charge registered in the Land Registry for registered land.

- Statutory charges for monies to be repaid are not typically encountered in practice. The proposed method of security via statutory charge for SMI loans, could result in changes to conveyancing practice.

- Where the original policy intention is to be maintained, any necessary regulations to be made by the Department should ensure that these provisions are reflected in the drafting of any statutory charge and corresponding entry on the Statutory Charges Register.

- As part of the conveyancing process and in accordance with the requirements of the Society's regulatory Home Charter Scheme (which applies where a solicitor is acting in the purchase, sale, mortgage, or re-mortgage of domestic property), a search in the Statutory Charges Register is obtained by the vendor's solicitor in a sale and provided to the purchaser's solicitor as part of the pre-contract title investigation.

- Where a statutory charge for repayment of an SMI loan and/or interest charged in respect of such a loan appears on such search affecting the property, a prospective new purchaser of the property (and any lender) will likely require removal of that statutory charge before completion of the transaction. It will be important therefore for the Department to establish satisfactory processes to provide prompt repayment figures and to exercise its duty as the body which registered the statutory charge, to promptly apply for its cancellation to include when the charge is discharged, becomes unenforceable or ceases to affect the property.

- The matters of registration and priority of the statutory charge should also be considered. It will be important for the Department to clarify the proposed timeframe between the acceptance of the offer of loan payments and the Department's application for registration of the corresponding statutory charge and/or if the Department intends to apply to register a priority notice in respect of the statutory charge.

- Such matters will likely have implications for conveyancing practice in general, including ensuring priority of any prior ranking charge, any qualifying loan or any subsequent loan and the date of any statutory charges search that should be obtained. Appropriate notice to be given by the Department of its intention to apply for registration of the corresponding statutory charge to all interested parties should also be considered.

- The statutory charges typically encountered in practice are not charges for monies to be repaid as proposed by the Bill. It will therefore be important that should the Bill be enacted and the provision for charges securing SMI loans to be registrable in the Statutory Charges Register is to come into effect, that this is widely communicated and publicised in advance to all relevant stakeholders.

- The position of any legal owner(s) of a property who are not included in the benefit unit should also be considered.

- The proposed statutory provision for the Department to register a statutory charge which affects the property as opposed to being created by the legal owners, potentially means that the interest of a joint legal owner(s) who is not included in the benefit unit could be detrimentally affected.

- Prior to registering the statutory charge all the legal owners may share ownership of the property jointly in equal, undivided shares, so that if one of them dies their undivided share automatically passes to the surviving legal owner(s) (joint tenancy). However, if a statutory charge is registered in relation to an SMI loan, registration of that statutory charge may automatically 'sever' the joint tenancy - legal owners would now hold distinct and separate shares in the property and if one of them dies their share will not automatically pass to the surviving legal owners. This may have potentially significant implications for the legal owners.

- Further, the legal owner not included in the benefit unit may be unaware of the registration of the statutory charge and therefore of the potential change to their shared ownership of the property

- A query was raised regarding the protection of the position of legal owner(s) of the property not included in the benefit unit.

Clause 2: Commencement and short title

42. There were no comments offered on the commencement and short title clause.

Committee Deliberations on the Clauses of the Bill

43. The Committee commenced deliberations on the clauses of the Bill at its meeting on 27 January 2022 and continued its deliberations at the meetings on 1 and 8 February.

44. At its meeting on 27 January 2022 the Committee was informed by Departmental Officials that approximately £2.7m are currently unsecured with no method to consider if recovery is possible. This Bill will give the Department the power to meet its original policy intention to consider the recovery of loans.

45. The Committee asked if those in receipt of universal credits working 16 hours would be entitled to SMI. The officials informed the Committee that the loan would not be available to them, as they are in receipt of a wage.

46. The issue of someone who inherits a home following the death of a family member but is not in the financial position to pay off a debt was raised. Members were concerned that this new loan structure could put these individuals into a difficult position.

47. In its briefing to the Committee the Law Society of Northern Ireland stated that this Bill will provide for a change in the security for loans that are made by the Department in relation to statutory support for mortgage interest. Whilst there is a precedent for a statutory charge to be registered, it is not always the case.

48. The Law Society of Northern Ireland went on to emphasise the importance of communication, and that all stakeholders should be notified of the changes within the Bill.

49. Members indicated that the Department would need robust processes in place to ensure a smooth and timely entry of charges onto the Register (and prompt handling of cancellation of charges) to avoid a potential delay or detrimental impact on the conveyancing. The Committee was informed that an SMI loan can be repaid at any time (in one payment or in instalments) and that the

removal of the charge was an efficient process that would not cause delay in a house sale.

50. The Committee noted there are 541 loans not secured by a legal charge at £5000 as an average loan and 668 with a legal charge, which therefore currently are not being treated equally (to the 541).

51. Members welcomed the information provided that the use of a Statutory Charge will enable a more flexible process by where a person can transfer the SMI loan to a new property so that all equity can be used in the purchase of a new house.

52. Having heard from the Law Society that the Department would need processes in place to ensure prompt entry of charges onto the register and also for prompt cancellation of charges (if property being sold) to ensure there is no impact on conveyancing, Members queried how easy it was to remove the charge on a property.

53. The Officials indicated that (a) an SMI loan can be repaid at any time (in one payment or in instalments) and (b) that the removal of the charge was an efficient process that would not cause delay in a house sale.

54. The Committee requested that the Officials confirmed in its response the process for repaying the SMI loan and also described the process for the removal of the charge on a property and the timelines involved.

55. The Committee also queried whether set times for adding a charge to the register or removal of a charge would be useful and potentially be included in the regulations?

56. Members queried with the Law Society if this Bill had the potential to cause any issues for couples who were separating on death of one of the joint owners. The response from the Law Society was that the regulations would need to address any impacts on joint owners.

57. The Committee informed the Officials that it required clarification on the situation regarding joint owners.

58. The Committee raised a number of potential scenarios with the Law Society and explored these further with the Departmental Officials.

59. Among the scenarios was that an SMI loan is with the owner of a property (person A), person B marries person A or moves into the home with person A and then person A dies leaving the property to person B or person A moves into a care home and the home needs to be sold.

60. The Committee requested confirmation in the Departmental response of:

- what would happen in each of these events – is the Committee's understanding correct that the property would have to be sold and if there was sufficient equity then the SMI loan would be repaid;
- what 'sufficient equity' means in practice or is this calculated on a case by case basis; and
- is there the potential for the Bill to leave someone who lives in the property homeless if a trigger event occurs?

61. These scenario discussions led to a Member querying whether the Bill could be amended or the regulations provide for the SMI loan to be transferred to person B as it would be better if they could take on the existing loan rather than have to sell the property or try to take out a new SMI loan.

62. The Officials agreed to take this matter away for consideration and to advise the Committee of the outcome of those considerations regarding the transfer of an SMI loan.

63. Members queried the timescale for the Regulations, if they would apply to new loans only and the timescale for the transfer of existing loans in the tranches referred to.

64. The Committee requested confirmation of the timescale for the Regulations, if they will apply to new loans only and timescale for the transfer of existing loans.

65. There were a number of queries raised regarding the decision-making and appeal process in the Department regarding who decides if there is sufficient equity for repayment of an SMI loan or if it is to be written off and if there is an appeals process.

66. The Committee requested further explanation in regard to this debt management decision-making in the Department regarding SMI loans and also regarding any appeals process.

67. Members queried the 39-week wait for Universal Credit and Officials advised that this was to allow time for a homeowner to seek alternative resolution (perhaps through their mortgage lender) rather than taking out an SMI loan.

68. At the meeting on 1 February 2022, the Departmental Officials discussed their written response dated 31st January which covered responses to the queries raised from its meeting on 27th January, including:

- Processes for adding and removing charges;
- Joint ownership - clarification;
- Scenarios regarding the death of property owner or move to care home;
- Potential transfer of SMI loans;
- Timescale for the regulations;
- Debt decisions/appeals;
- 39-week wait;
- Issues regarding Universal Credit and future pensioners not on Pensions Credit.

69. Following the overview of the written response, a discussion took place between the Members and the Officials covering a range of areas including:

- Further aspects of SMI loans:
    - SMI loans cover mortgage interest payments only;
    - Confirmation of how and when they can be paid back – at any time and in one block or in instalments or can remain in place until a trigger event causes Department to seek recovery of loan;
    - That there is not a fixed time period on the loan;

    - Merit or otherwise in transfer of part or all of the SMI loan to a third party to allow them to remain in property; and
    - Loan recovery by Department follows after mortgage provider debt repaid unless the SMI loan is only debt on the property.

- Debt decisions and appeals:
    - The operation of the write-off procedure was highlighted including the levels of debt that can be written off at different grades; and
    - It was confirmed that there is an appeals process for being eligible for SMI loan but not for the write-off decision.

- Further policy related discussions on matters regarding:
    - Transitional protections regarding Universal Credit; and
    - Impact on pensioners of the future.

- Regulations – Discussions took place in closed session with Bill Office and then in open session with Officials regarding the potential to amend Article 13(9) so that regulations would be draft affirmative rather than negative resolution to allow improved scrutiny by Committee and Assembly.

70. Members queried the 39 week wait for Universal Credit and Officials advised that this was to allow time for a homeowner to seek alternative resolution (perhaps through their mortgage lender) rather than taking out an SMI loan.

71. The Committee requested confirmation of the rationale for the 39-week wait and if it was something that could be considered in a review of the SMI policy.

72. Members raised concerns regarding NI moving to the UC system in due course. It was understood that those who work 16 hours and receive UC cannot avail of an SMI loan? The Committee requested confirmation that this was the case and if the Department would consider reviewing the SMI loan policy in that regard in preparation for the move to UC in NI.

73. With regard to fewer pensioners being in receipt of pensions credit in the future (due to increase in workplace pensions), Members queried the ability of such individuals to get an SMI loan.

74. The Committee requested confirmation that is the case and if the Department would consider reviewing the SMI loan policy in that regard for future proofing.

75. The Departmental Officials agreed to provide the following for the Committee records:

- Information detailing the debt management process i.e. the process of write- off and removal of legal charge –; and Information on the operational processes currently in place for the registration and removal of a statutory charge - this ‘Loan Management Guidance’ was subsequently received and circulated to Members.

76. The Committee then requested, with regards to the discussions regarding the potential to amend Article 13(9) (so that regulations would be draft affirmative rather than negative resolution) that Officials liaise with OLC and DSO as appropriate and report back to the Committee, as it is recognised that this could have unintended consequences for regulations that are not within the scope of this Bill.

77. At the meeting on 8 February 2022, the Departmental Officials informed the Committee that they believed that this would create an unnecessary burden when making amendments to Support for Mortgage Interest legislation.

78. The Officials explained that NI social security is bound by the parity principal and regularly operates to tight deadlines with regards to social security legislation changes. If NI regulations were draft affirmative resolution, any changes DWP implement to the legislation could be delayed in NI due to Assembly timetabling and debates, which could come at a detrimental cost to SMI loan recipients and the NI block grant.

79. By way of an example, the Officials informed Member that the Loans for Mortgage Interest (Amendment) Regulations (Northern Ireland) 2021 (S.R. 2021 No.28) amended the Loans for Mortgage Interest Regulations (Northern Ireland) 2017 to clarify that claimants, who have fled the accommodation for

which they receive support for mortgage interest loan payments due to fear of violence in the home, will be able to continue receiving loan payments for that accommodation for a specified period of time. They also amended the Social Fund (Cold Weather Payments) (General) Regulations (Northern Ireland) 1988 to clarify which conditions a claimant, who receives support for mortgage interest loan payments and is treated as entitled to state pension credit, needs to meet in order to be entitled to a cold weather payment.

80. These amendments would have required the use of the draft affirmative procedure had Article 13(9) required that Assembly control, delaying the beneficial changes mentioned above. All proposed amending Regulations are passed to the Committee (SL1) for their consideration/discussion prior to their making and once made the Statutory Rule is sent for their scrutiny. If there is any disagreement with current amending regulations subject to the negative resolution procedure, they can be annulled if a resolution of annulment is passed within the statutory period and the Statutory Rule becomes void.

81. Corresponding GB Regulations from the respective sections of the Welfare Reform and Work Act 2016 also require the same Parliamentary control being subject to annulment in pursuance of a resolution of either House of Parliament. The Office of Legislative Council (OLC) further commented that it was worth noting that the regulations under Article 16 (transitional provision) and 22 (power to make consequential amendments) are also subject to negative resolution.

82. The Officials further informed the Committee that the approach taken in the 2016 Order, whereby the exercise of power is subject to negative resolution, seems to be common in social security legislation, although this is obviously subject to exceptions where an important or potentially controversial exercise of power is contemplated. The approach taken follows the corresponding provisions in the Welfare Reform and Work Act 2016. The Officials confirmed that this [amendment to Article 13(9)] could be done. However, specific provision would need to be included if the Department would want to make, in one instrument, (i) regulations which would otherwise be subject to the negative procedure and (ii) regulations which are subject to greater Assembly control (i.e. the draft affirmative procedure).

83. The effect is that unless the regulations could be split, then in practice they would all be subject to the more stringent procedure. For example, both amendments within The Loans for Mortgage Interest (Amendment) Regulations (Northern Ireland) 2021 (S.R. 2021 No.28), would have been subject to draft affirmative procedure or split into two Statutory Rules. As regards whether an amendment to make all regulations under Article 13 subject to draft affirmative procedure would be within scope, there is greater room for uncertainty and it is always difficult to say with confidence what way the Speaker will rule, but the Department's sense is that an amendment of this kind probably would be considered within scope.

84. The Officials further stated that the Departmental Solicitor's Office has agreed with the comments made by OLC and have commented - the power being given to the Department by the Bill is the power to make regulations providing for the repayment of a loan to be secured by way of Statutory Charge - providing the taxpayer with another method of security within the existing SMI framework. The Bill is not changing DfC policy on providing assistance to homeowners by paying interest on their mortgage. The Bill is essentially fulfilling the policy intent that all loans are to be secured. This is/was proposed by DWP and it was to be implemented throughout the UK. The fact that NI had a different land registration system made securing all loans impossible and this new power is bringing that policy aim to fruition.

85. In conclusion, the Departmental Officials informed Members that the Bill is of limited scope and sits within the existing framework of loans, their security and repayment. In conclusion, while making an amendment to Article 13(9) to change the Assembly control for regulations made under Article 13 may be within the scope of the Bill, it is the view of the Department that the wider consequences could have negative impact on the Department's ability to make regulations to fulfil the parity principal, which could negatively impact on SMI loan recipients and the NI block grant.

86. It may also have unintended consequences and delays to Statutory Rules that make amendments to more than SMI legislation. The Department believes that the current processes, Committee consideration prior to regulations being made, scrutiny after they are made and the ability to have the Statutory Rule

annulled ensures that all Statutory Rules subject to negative resolution receive adequate consideration and scrutiny. Departmental officials would be happy to brief the Committee when it is in a position to discuss the regulations subsequent to the Bill. The Committee Members indicated that they were content with the Department's response.

87. Officials concluded by clarifying a number of points relating to the meeting on 1 February 2022 on available equity for repayment of an SMI loan. The Department only considers available equity in the property, not the full estate of a deceased person. Members were content with this clarification.

Clause by Clause Scrutiny of the Bill

88. Having considered the written and oral evidence received on the Bill, the Committee undertook its formal Clause-by-Clause consideration at its meeting on 8 February 2022 – see Minutes of Proceedings in Appendix 1 and Minutes of Evidence in Appendix 2.

89. Information on the Committee's deliberations on the individual Clauses in the Bill and additional provisions can be found in the previous section of this report.

Clause 1 - Security for loans for mortgage interest etc.

90. The Committee was content with the clause as drafted by the Department.

Clause 2 - Commencement and short title

91. The Committee was content with the clause as drafted by the Department.

Long Title

92. The Committee was content with the Long Title as drafted by the Department.

Links to Appendices

Appendix 1: Memoranda and Papers received relating to the Bill

View Memoranda and Papers supplied to the Committee.

Appendix 2: Minutes of Proceedings

View Minutes of Proceedings of Committee meetings related to the report

Appendix 3: Minutes of Evidence

View Minutes of Evidence of Committee meetings related to the report.

Appendix 4: Written submissions

View written submissions received in relation to the report.

Appendix 5: Research Papers

View Research Papers produced by the Assembly's Research and Information Service (RaISe) in relation to the report.

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