



Northern Ireland
Assembly

Committee for Infrastructure

Report on Legislative Consent Motion on the UK Government Business and Planning Bill 2019-2020

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Ordered by the Committee for Infrastructure to be printed 1 July 2020

Report: NIA 33/17-22 Committee for Infrastructure.

Contents

Powers and Membership 3

Introduction 4

Background 4

The Business and Planning Bill 6

Purpose of the Legislative Consent Motion 6

Committee Consideration 7

Links to Appendices 8

Powers and Membership

Powers and Membership

The Committee for Infrastructure 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 of Infrastructure and has a role in the initiation of legislation. The Committee has 9 members, including a Chairperson and Deputy Chairperson, and a quorum of 5.

The Committee has the 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 inquiries and make reports; and
- Consider and advise on matters brought to the Committee by the Minister of Infrastructure.

The membership of the Committee during the current mandate has been as follows:

Ms Michelle McIlveen MLA (Chairperson)
Mr David Hilditch MLA (Deputy-Chairperson)
Ms Martina Anderson MLA
Mr Roy Beggs MLA
Mr Cathal Boylan MLA
Mr Keith Buchanan MLA
Mrs Dolores Kelly MLA
Ms Liz Kimmins MLA
Mr Andrew Muir MLA

Introduction

1. The Minister for Infrastructure, Nichola Mallon MLA, wrote to the Committee for Infrastructure on 17 June 2020 (Annex A) to advise that she intended to table a Legislative Consent Motion to temporarily enable one year Driver Licence renewals for drivers of lorry and bus drivers (group 2 drivers). The Legislative Consent Memorandum (Annex B) asks the Assembly to endorse the principle of the inclusion in the Business and Planning Bill of provision for temporary reduction in the duration of certain Northern Ireland driving licences”, as introduced to the House of Commons on 25 June 2020.

Background

2. A medical report is an integral part of the qualifying application criteria for ‘Group 2 driving licences’ issued to lorry and bus drivers. The current Covid-19 crisis has meant that drivers who require a medical assessment are having difficulty in gaining access to a medical professional. In accordance with the EU Driving Licence Directive (Directive 2006/126/EC), for drivers up to age 65, Group 2 driving licences are issued for a 5 year period (unless the licence is medically restricted, in which case the validity period is reduced).
3. Drivers are required to submit a medical report with their licence application if:
 - (i) it is a first time application;
 - (ii) they are aged 45 and over; or;
 - (iii) they are aged under 45 and have a medical condition that must be declared.
4. In Great Britain, in response to the current crisis, the Department for Transport (DfT) took the decision to issue 1 year licence renewals to some drivers, without prior medical assessment. These 1 year licences are only issued to drivers aged 45 and over and are not issued to first time applicants. Moreover, applicants in that category who have health issues will still need to declare

these, and those with health issues that prevent them from driving safely will not have their licence renewed.

5. Implementation of this approach requires the amendment of primary legislation. DfT decided to do this at a later date, and apply the provisions retrospectively.

Implementation in Northern Ireland

6. The Minister for Infrastructure's legal advice stated that she was not able to make similar provision in the form of an Act of the Assembly. The legal advice referenced Section 6 of the Northern Ireland Act 1998. Section 6 provides that an Act is outside the Assembly's legislative competence if it is incompatible with EU law or Convention rights as the terms of the devolution settlement require that our devolved administration operate within this framework. For Group 2 drivers, the relevant EU law is provided by the EU Driving Licence Directive (Directive 2006/126), which stipulates that Group 2 driving licences should be valid for 5 years.
7. The Minister's legal advice has recommended that if 1 year licensing was to be introduced, the safest approach would be to do so via Westminster legislation, since Westminster is not bound by a similar EU law compatibility restriction.
8. The Minister was alerted to the fact that the EU has brought forward an Emergency Transport Regulation. This Emergency Regulation includes a provision which states that all driving licences which expire or are due to expire between 1 February 2020 and 31 August 2020 will be deemed to be extended for a period of 7 months. This new EU Regulation (Regulation (EU) 2020/698) became law across the UK with effect from 4 June.
9. The Minister has concluded that this represents a more effective alternative to 1 year licences for Group 2 drivers. It has meant that all existing driving licences in Northern Ireland - including Group 2 driving licences - can be treated as having an extended validity period. In effect, they remain valid for 7 months beyond the date that is shown on the face of the licence.

10. So as not to completely rule out the possibility of issuing 1 year Group 2 driving licences in future months, in the event that normal licensing arrangements cannot be restored from September 2020 the Department looked for possible GB plans to bring forward statutory provision for 1 year licences for certain Group 2 drivers.
11. DFT had originally proposed to make the required changes to primary legislation later this year. However, those plans have changed. The licensing provisions are now to be included in a Business and Planning Bill which was introduced to Westminster on 25 June.

The Business and Planning Bill

12. DFT The Business and Planning Bill (a copy of the Bill is at Annex C and the Explanatory Memorandum is at Annex D) includes a range of measures that are designed to help businesses to adjust to new ways of working during recovery from Covid-19. It includes provision for a temporary reduction in the duration of driving licences for goods vehicles and passenger carrying vehicles (lorries and buses).
13. This memorandum focuses on clause 15 of the Bill, which makes provision for the temporary reduction in the duration of driving licences for goods vehicles and passenger carrying vehicles (lorries and buses) in Northern Ireland. Taxi driving licences are not covered by the Bill.
14. Clause 15 of the Bill includes specific provision for Northern Ireland, relating to the licensing of drivers of larger vehicles. Driver licensing is a transferred matter. Clause 14 of the Bill includes corresponding provision for Great Britain.

Purpose of the Legislative Consent Motion

15. Clause 15 of the Business and Planning Bill contains discretionary provision that would enable the Department for Infrastructure to issue 1 year licences, provided certain conditions are satisfied. Subsection 1 provides that these licences can only be granted during the period commencing at 1 August 2020

and ending at 24 March 2022. Effectively, this is a sunset provision. The Department's power to issue 1 year licences lapses at 24 March 2022.

16. Subsection 2 outlines the conditions that must be satisfied. The 1 year licence must be a licence to drive a goods vehicle or a passenger carrying vehicle. Also, these 1 year licences are only granted to drivers aged 45 and over - and in circumstances where the Department decides to waive the normal requirement for a medical report. Finally, a second 1 year licence cannot be granted to a licence applicant; in other words, the Department cannot renew the licence for a further year.
17. In practice, the Department will only waive the medical report requirement in circumstances where drivers are aged 45 or over, are applying for a licence renewal and do not declare a medical condition that prevents them from driving safely. These 1 year licences will not be issued to any first time applicants.
18. Subsection 3 provides that 1 year licences shall not be granted in circumstances where a driver has previously been granted a motor vehicle driving licence in the previous 12 months - and submitted a medical report in support of that previous application. In these circumstances, the licence that is granted will have its normal duration.

Committee Consideration

19. Given the time constraints for agreeing the Legislative Consent Motion, the LCM was issued by email to the Committee seeking the Members consent ahead of ratification at the Committee meeting on 1 July 2020. Members sought clarification on a number of issues prior to giving their consent. A copy of the issues raised and the answers received from the Department is attached at Annex E. The LCM was formally considered by the Committee at its meeting on 1 July 2020.
20. The Committee wrote to the Minister on 24 June 2020 indicating that it was content for the LCM to proceed to the next stage of the process.

Links to Appendices

Appendix 1 - Notification from the Minister for Infrastructure can be viewed *here*.

Appendix 2 - Legislative Consent Motion - Business and Planning Bill can be viewed *here*.

Appendix 3 - The Business and Planning Bill - As Introduced can be viewed *here*.

Appendix 4 - The Business and Planning Bill - As Introduced - Explanatory Notes can be viewed *here*.

Appendix 5 - Department for Infrastructure response to Committee queries can be viewed *here*.

Appendix 6 - Committee for Infrastructure Minutes of Proceedings for 1 July 2020 can be viewed *here*.

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