

DELEGATED POWERS AND REGULATORY REFORM COMMITTEE

NORTHERN IRELAND (WELFARE REFORM) BILL

Memorandum by the Northern Ireland Office

Introduction

1. This Memorandum has been prepared by the Northern Ireland Office to assist in the examination of delegated powers in the Northern Ireland (Welfare Reform) Bill. It outlines the provision in the Bill which confers a power to make delegated legislation, and explains why this power has been taken and the nature of, and reason for, the procedure selected for exercising this power. The purpose of the Bill is to allow for the implementation of welfare reform in Northern Ireland.

2. The purpose of the Bill is to implement the agreement reached on 17 November 2015 following 10 weeks of talks between the UK Government, the five largest parties in the Northern Ireland Assembly, and the Irish Government.

Clause 1 : Power to make provision in connection with social security, child support maintenance and arrangements for employment in Northern Ireland

Power conferred on: Her Majesty by Order in Council

Power exercisable by: Order in Council

Parliamentary Procedure: Affirmative resolution

Introduction

3. Clause 1 provides the Secretary of State with the power to legislate for welfare in Northern Ireland by Order in Council. It contains a sunset provision preventing its use after 31st December 2016.

Effect of the provision

4. Welfare is currently devolved in Northern Ireland. The effect of this provision is to allow the Secretary of State to legislate by way of an Order in Council for welfare in Northern Ireland.

Justification of the Delegation

5. The background to why it has been necessary for the Government to step in and legislate for welfare reform in Northern Ireland is explained in the Explanatory Notes to the Bill. In summary, in failing to pass legislation mirroring the 2012 Welfare Reform Act, Northern Ireland was no longer maintaining parity in welfare provision with the rest of the UK and as a consequence, deductions have been made to the block grant to reflect the savings foregone due to the failure to implement the 2012 Act.

6. This issue was addressed by the Stormont House Agreement, but nationalist parties could not support the Assembly's Welfare Reform Bill. The failure of the Northern Ireland parties to reach consensus on welfare reform has meant the Stormont House Agreement has not been fully implemented, has contributed to the Northern Ireland Executive's budgetary difficulties, and has been a cause of political instability in Northern Ireland. For these reasons, the impasse over welfare reform has increasingly had the potential to seriously undermine devolved government in Northern Ireland.

7. The agreement reached on 17 November means welfare reform will finally be resolved. It is essential that the Bill is passed on an emergency basis in order to facilitate the quickest as possible implementation of welfare reform in Northern Ireland. In short, emergency legislation at Westminster as outlined in this Bill offers the quickest, most secure and effective means of implementing welfare reform in Northern Ireland.

8. The Bill itself will be fast-tracked through Parliament to ensure that it is in place to provide the vires for the subsequent secondary legislation that will make the changes. There is insufficient Parliamentary time available to take all of the detailed provisions through Parliament as primary legislation and the only way available to have the necessary law in place by the early part of next year is to delegate the detail of the welfare provisions to secondary legislation. The Bill contains a provision in clause 3(3) providing that the

power to make Orders in Council under this Bill may not be exercised after 31st December 2016.

Justification of the level of Parliamentary Scrutiny

9. Given that the content of the Order in Council is made up of provisions that would normally be made in primary legislation it is important that the Order in Council is debated fully in Parliament and therefore the affirmative resolution procedure is most appropriate. The Order in Council makes fundamental changes to the welfare system in Northern Ireland, replicating many of those made in Great Britain by the Welfare Reform Act 2012. It is normal convention for secondary legislation with a devolution aspect to be made by Her Majesty in Council so that is the method that has been chosen here.