



Northern Ireland  
Assembly

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**COMMITTEE FOR  
REGIONAL DEVELOPMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Transport Bill**

1 December 2010

# NORTHERN IRELAND ASSEMBLY

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## COMMITTEE FOR REGIONAL DEVELOPMENT

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### Transport Bill

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1 December 2010

**Members present for all or part of the proceedings:**

Mr Fred Cobain (Chairperson)

Miss Michelle McIlveen (Deputy Chairperson)

Mr Billy Armstrong

Mr Cathal Boylan

Mr Allan Bresland

Mr Billy Leonard

Ms Anna Lo

Mr Fra McCann

Mr Conall McDevitt

Mr George Robinson

**The Chairperson (Mr Cobain):**

In this session, we will identify any of the outstanding issues that we need to take forward. We will go through the Bill clause by clause. The departmental officials are here if we need them to comment on any aspect of the Bill.

The Committee office and the Bill Clerk met with departmental officials on 25 November to discuss the outstanding amendments, as requested by the Committee. A short update on that meeting is included in the papers.

**The Committee Clerk:**

Yesterday evening, the Department sent us draft amendments to clauses 6, 10, 12, 46 and 47. Those are not included in today's papers, because we are going to do the formal clause-by-clause scrutiny of the Bill and consider the text of the amendments next week.

Clause 6 relates to service permits and the amendment is to include representations by community transport providers. The amendment to clause 10 actions the Committee's point about the minimum wage and adds a line on the inclusion of convictions under the National Minimum Wage Act 1998 as cause for the revocation, suspension or curtailment of a permit.

The amendment to clause 12 relates to the Committee's request to ensure that, if permits were in existence and were not to be renewed, and those services were to become part of the network, there would be an inquiry, an appeal mechanism and notice for them. The amendment to clause 46 is about changing the Assembly procedure for making regulations that will create offences. The amendment to clause 47 is an amendment that the Department would like and includes Department of the Environment (DOE) enforcement in the definition of "authorised person".

We will consider the text of those amendments in detail next week. In train is our amendment on sustainability and accessibility and the issue with clause 45, the Henry VIII clause.

We are still waiting for a response from the Health Committee on the scope, timetable and terms of reference for article 2(2) of the Mental Health (Northern Ireland) Order 1986. There is a research paper in today's tabled papers, which the Assembly Research and Library Service very kindly produced for us at very short notice. That should provide some clarity on the issue. We are also awaiting a response from the Consumer Council on the transport forward work programme and its engagement with local councils.

**Mr F McCann:**

I have gone through the research paper, and, as I said last week, there is a clear difference between the 1986 Order and some of the other legislation that deals with mental health. I believe that that Order is still in operation but that it is in the process of being changed. How will it be enhanced to bring it up to date? We can leave that issue until we hear word back from the Health

Department.

**The Chairperson:**

We need to be careful about the way in which we deal with this, because that is not our Bill. However, the Department will need to recognise our suggested changes in some way.

**The Committee Clerk:**

To clarify, we are awaiting a response from the Health Department about the timescale, scope, terms of reference, and so on for the Bill. The Department previously indicated — officials may come to the table to keep me right if I go wrong — that certain provisions in the mental health Bill will mirror those that are in place for a bus operator's licence. People need to have such a licence to get a permit. Therefore, the provisions for a bus operator's licence are the responsibility of another Department. There is a coupling between having a bus operator's licence and being able to apply for a service permit, which is what this clause relates to.

The other issue is the review of the Mental Health (Northern Ireland) Order 1986 and any subsequent legislation. When that legislation is made by the Health Department in Northern Ireland, it may repeal and amend the provisions of other legislation that the 1986 Order affected. Therefore, when the Mental Health Order is reviewed and its replacement comes into force in Northern Ireland, all of that other legislation will be automatically updated.

The Committee has the option of writing to ask the Health Committee to point out to the Health Department that provisions in other legislation may impact people's livelihoods and the operation of their businesses and to take that into account when it is designing the terms of reference and scope of the Bill during its review. I have outlined the mechanism by which this provision in the Mental Health Order will be updated when the Order is either replaced or amended. I cannot be clearer than that, because the situation is not yet clear. As I said, we are awaiting information on the scope, time frame and terms of reference.

**The Chairperson:**

We cannot get ahead of the Health Department. However, it must take cognisance of the outcome of this and make provision for it in the Bill, rather than the other way round.

We will hop through this bit. Next week, we will insert the amendments as agreed and have a final run-through. Now, members should turn to the relevant paper in the tabled papers.

Clause 1 relates to provision of public passenger transport services. Following discussion with officials, as outlined in the Committee Clerk's memo, the Department has agreed to the Committee's recommendation to amend clause 1(1) to include sustainability and accessibility at clause 1(1) as items to which the Department must give due regard when securing the provision of public passenger transport services.

With the exception of the above, are members content with the information received to date on this clause, or do members wish to seek additional information? Are you happy with where we are?

*Members indicated assent.*

**The Chairperson:**

Clause 2 relates to service agreements. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 16 to 18 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clause 2, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 4 relates to applications. Members reviewed the written and oral evidence received from stakeholders and the Department on clauses 3 and 4, at pages 18 and 19 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clauses 3 and 4, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 5 relates to the notification of subsequent events. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 19 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clause 5, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 6 relates to matters to which the Department must have regard. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 19 to 23 of the draft report, at the Committee's meetings of 3 November and 10 November 2010. The Department is drafting an amendment to clause 6(2) to include the community transport operators in the list of those whose representations the Department shall take into account when deciding to issue, refuse or attach conditions to a permit. That will be considered by the Committee at next week's meeting.

With the exception of the above, are members content with the information received to date on clause 6, subject to the agreed amendment, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Members will consider the draft amendment to clause 6 at next week's meeting. Are you content to defer consideration of all of clause 6 until then?

*Members indicated assent.*

**The Chairperson:**

Clause 7 relates to duration. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 23 and 24 of the draft report, at the Committee's

meetings of 3 November and 10 November 2010. Members are seeking additional information on the provisions in clause 7(6)(b) with reference to article 2(2) of the Mental Health (Northern Ireland) Order 1986. Members may wish to refer to the research paper.

Are members content with the explanation received today? Do you want to consider the clause at next week's meeting? Is it the latter?

*Members indicated assent.*

**The Chairperson:**

Clause 8 relates to variation. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 24 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clause 8, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 9 relates to conditions. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 24 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clause 9, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 10 relates to revocation, suspension and curtailment of permits. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 25 and 26 of the draft report, at the Committee's meetings of 3 November and 10 November 2010. Members decided to amend the Bill to seek to ensure that employees of permit holders would be entitled to the minimum wage and that a permit would be jeopardised if that was not the case. Following

consideration of a number of alternative options and discussion with officials, the Department suggested that an amendment be made to the list at clause 10(1) to include conviction for the offence under the National Minimum Wage Act as cause for revocation, suspension and curtailment of a permit.

With the exception of the above, are members content with the information received to date, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Are members content to defer consideration of clause 10 until next week's meeting, pending consideration of the wording of the proposed amendment to clause 10(1)?

*Members indicated assent.*

**The Chairperson:**

Clause 11 relates to disqualification. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 26 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clause 11, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 12 relates to revocation, disqualification, etc.: supplementary provisions. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 27 of the draft report, at the Committee's meetings of 3 November and 10 November 2010. Members decided to seek an amendment to the Bill to ensure that, in cases where permits are not renewed because the routes in question are to be included in the network, permit holders have access to an inquiry and an appeal mechanism. The Department is proposing that that can be achieved by including that provision at clause 12(1).



With the exception of that amendment, are members content with the information received to date on clause 12, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Members will consider the draft amendment to clause 12(1) at next week's meeting. Are members content to defer consideration of all of clause 12 until then?

*Members indicated assent.*

**The Chairperson:**

Clause 13 relates to fees. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 27 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clause 13, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 14 relates to permits not to be transferable. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 27 and 28 of the draft report, at the Committee's meetings of 3 November and 10 November 2010. Members are seeking additional information on the provisions in clause 14(2) with reference to article 2(2) of the Mental Health (Northern Ireland) Order 1986. Members have considered the research paper tabled today and have decided on this matter during the Committee's consideration of clause 7.

With the exception of the above, are members content with the information received to date, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Are members content to defer consideration of clause 14 until next week's meeting, pending

clarification on clause 14(2)?

*Members indicated assent.*

**The Chairperson:**

Clause 15 relates to holding companies and subsidiaries. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 28 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clause 15, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 16 refers to forgery, etc. and clause 17 to false statements. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 28 and 29 of the draft report, at the Committee's meetings of 3 November and 10 November 2010.

Are members content with the information received to date on clauses 16 and 17, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

We move to Part 2 of the Bill, "Buses, Taxis and Trains." Clause 18 relates to road service licence renamed, clause 19 to particulars to be provided, and clause 20 to functions as to grant of licences. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 29 to 32 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clauses 18, 19 and 20, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 21 relates to amendments of the Taxis Act (Northern Ireland) 2008, and clause 22 relates to provision of railway services. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 32 and 33 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clauses 21 and 22, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

We move to Part 3 of the Bill, "Consumer Council." Clause 23 relates to forward work programme and clause 24 to co-operation between the Department and the Consumer Council. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 33 and 34 of the draft report, at the Committee's meetings in November 2010. Members will be aware that an undertaking has been sought from the Consumer Council that it will specifically engage with NILGA and local councils in developing its transport forward work programme.

With the exception of the above, are members content with the information received to date on clauses 23 and 24, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

We move to Part 4 of the Bill, "Enforcement". Clause 25 relates to powers of entry. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 34 to 36 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clause 25, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**Mr Boylan:**

There are clauses with amendments that we need to read through. As there is no contention with the other clauses, can we group them together and ask the question as one?

**The Committee Clerk:**

Yes, we can.

**The Chairperson:**

We are on grouped clauses 26 to 31. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 36 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clauses 26 to 31, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

We move to Part 5 of the Bill, "Grants" and to clauses 32 to 37. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 37 to 43 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clauses 32 to 37, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Part 6 relates to miscellaneous and supplementary. In relation to clauses 38 to 41, members reviewed the written and oral evidence received from stakeholders and the Department, at pages 43 and 44 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clauses 38 to 41, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 42 relates to conduct of persons at bus stations. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 44 and 45 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clause 42, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 43 relates to shared transport facilities. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 45 to 48 of the draft report, at the Committee's meetings in November 2010. Members decided to amend the regulation making mechanism at clause 43(2) from negative to affirmative procedure on shared services to provide the opportunity for debate by the Assembly and to recommend that regulations on shared facilities be developed in consultation with Translink, operators and relevant stakeholders. That amendment will be made to clause 46.

With the exception of the above, are members content with the information received to date on clause 43, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 44 relates to the application of the Act to partnerships. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 48 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clause 44, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Clause 45 relates to supplementary provision. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 48 and 49 of the draft report, at the Committee's meetings in November 2010. Members had previously decided that they were not content with this clause. Before concluding consideration of the matter, members will wish to consider additional information from the Examiner of Statutory Rules on examples of the use of Henry VIII clauses in other legislation and in other jurisdictions. That will be included in next week's papers.

With the exception of the above, do members require any additional information, or are members content? Are you content?

*Members indicated assent.*

**The Chairperson:**

Are members content to defer consideration of clause 45 until next week?

*Members indicated assent.*

**The Chairperson:**

We move to clause 46, "Regulations — general". Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 49 and 50 of the draft report, at the Committee's meetings in November 2010. Members decided to amend clause 46 to ensure that the draft affirmative procedure is used in making regulations that create criminal offences, as well as in making regulations on shared facilities.

With the exception of the above, are members content with the information received to date, or do members wish to request further information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Are members content to defer until next week's meeting any further consideration of clause 46 until the Committee has had an opportunity to consider the text of the proposed amendment?

*Members indicated assent.*

**The Chairperson:**

Clause 47 relates to interpretation. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 51 of the draft report, at the Committee's meetings in November 2010. Members will be aware that the Department is proposing an amendment to clause 47(1) to include examiners appointed by DOE in the definition of "authorised persons".

With the exception of the above proposed amendment, are members content with the information received to date on clause 47, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Are members content to defer until next week's meeting any further consideration of clause 47 until the Committee has had an opportunity to consider the text of the proposed amendment?

*Members indicated assent.*

**The Chairperson:**

We move to clauses 48 to 50. Members reviewed the written and oral evidence received from stakeholders and the Department, at page 51 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on clauses 48 to 50, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

We move to the schedules. Members reviewed the written and oral evidence received from stakeholders and the Department, at pages 51 and 52 of the draft report, at the Committee's meetings in November 2010.

Are members content with the information received to date on schedules 1 and 2, or do members wish to seek additional information? Are you content?

*Members indicated assent.*

**The Chairperson:**

Having informally considered the clauses and schedules, are members content that today's comments are reflected in the Committee's report on the Bill?

*Members indicated assent.*

**The Chairperson:**

Is the Committee content that, at next week's meeting, we take forward clause-by-clause scrutiny, review and agree the text of the proposed amendments and consider the next draft of the report?

*Members indicated assent.*

**The Chairperson:**

Next week's meeting will be the last one, so everything will have to be done by then.