



Northern Ireland  
Assembly

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**COMMITTEE FOR  
SOCIAL DEVELOPMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Housing (Amendment) (No 2) Bill –  
clause-by-clause-scrutiny**

20 January 2011

**NORTHERN IRELAND ASSEMBLY**

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**Housing (Amendment) (No 2) Bill – clause-by-clause scrutiny**

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20 January 2011

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

Mr Simon Hamilton (Chairperson)  
Ms Carál Ní Chuilín (Deputy Chairperson)  
Mr Sydney Anderson  
Mrs Mary Bradley  
Mr Jonathan Craig

**Witnesses:**

Mr Stephen Baird (Department for Social Development)  
Mr Alastair Campbell (Department for Social Development)  
Ms Angela Clarke (Department for Social Development)

**The Chairperson (Mr Hamilton):**

I welcome Alastair Campbell, Stephen Baird and Angela Clarke from the Department for Social Development to what I hope will be our last go at the clause-by-clause scrutiny of the Housing (Amendment) (No. 2) Bill.

***Clause 2 (Tenancy deposit scheme)***

**The Chairperson:**

The Committee agreed an amendment to clause 7 that makes the establishment of a tenancy

deposit scheme a duty and not just a power; it requires regulations to be brought forward 18 months after Royal Assent. The Committee agreed to defer consideration of clause 2 pending receipt of the text of an amendment that would allow tenants to recoup their deposit where a landlord is in breach of tenancy legislation. It is understood that the Department is unable to draft the amendment in question. Can you give us an update on why that cannot be done?

**Mr Alastair Campbell (Department for Social Development):**

There are complications around the issues with courts. The draftsman felt that he needed longer to consider the detail. We want to take it forward in future, but we cannot fit it in at the moment.

**The Chairperson:**

It is not that the issue is a dead duck that will be abandoned.

**Ms Angela Clarke (Department for Social Development):**

It is a timing issue.

**The Chairperson:**

It is for the next mandate.

**Ms Ní Chuilín:**

I find that strange.

**The Chairperson:**

A great deal has been added to the Bill; partly because of pestering from us. We spoke earlier about building things up; the Bill has been built up since it started out. However, the Committee has been assured that the issue has not been dropped.

It is also understood that the Department wishes to table some technical amendments to clause 2. Can you outline them for us?

**Mr A Campbell:**

The two amendments contain definitions under new article 5A that need to apply to new article

5B. The draftsman spotted that there was no reference to “and article 5B”.

**The Chairperson:**

That seems straightforward. Are members content with clause 2 as amended?

*Question,* That the Committee is content with the clause, subject to the Department’s proposed amendments, *put and agreed to.*

*Clause 2, subject to the Department’s proposed amendments, agreed to.*

**Clause 5 (Registration of landlords)**

**The Chairperson:**

The Committee suggested an amendment to clause 7 to make the establishment of a landlord register a duty and not just a power and to require the relevant regulations to be brought forward within 18 months of Royal Assent. The Committee accepted a technical amendment from the Department that was designed to ensure that landlord registration will be compulsory. The Committee agreed to defer further consideration of clause 5 pending receipt of advice on the setting of minimum fines for breaches of tenancy legislation. Does the Department have anything to add?

**Ms A Clarke:**

We had further discussions with the Department of Justice, and I know that the Committee would like to see minimum fines. The advice from the Department of Justice was that minimum penalties or sentences are not generally written into legislation; there is a reluctance to do so. The Minister of Justice is certainly very much against it. It would not be achievable. We do not have minimum penalties anywhere.

**The Chairperson:**

I am aware that the Minister for Social Development is in discussions with the Minister of Justice.

**Ms A Clarke:**

The Minister has asked us to continue discussions with the Department of Justice on several issues that arise from the Bill, which we will do. However, given the timing, we had no success on this issue.

**The Chairperson:**

The Committee has discussed the maximum level of the fine as well. The Committee is content to support the Bill as it stands; however, we have a written assurance that the level will be reviewed in 18 months' time. As long as that is underscored by the Minister at Consideration Stage, the Committee is content.

*Question*, That the Committee is content with the clause, subject to the Department's proposed amendments, *put and agreed to*.

*Clause 5, subject to the Department's proposed amendments, agreed to.*

***Clause 6 (Fixed penalty for certain offences)***

**The Chairperson:**

The Committee agreed to defer consideration of clause 6 pending receipt of advice on the setting of minimum fines for breaches of tenancy legislation. The Northern Ireland Local Government Association suggested an amendment that was designed to secure resources to help councils to enforce tenancy legislation. I direct members' attention to the correspondence from the Minister in which he says that he is to follow that up with the Department of Justice in the matter of fines and costs for councils. A satisfactory resolution of the issue would be most welcome. Given that explanation, is the Committee content not to pursue that amendment?

**Ms Ní Chuilín:**

Would that prejudice any discussions?

**The Committee Clerk:**

The Committee is merely accepting the Minister's assurance that fines and costs for councils will be looked at, and for that reason the Committee is content not to amend the Bill, but only for that reason.

**The Chairperson:**

Is the Committee content with the clause?

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 6 agreed to.*

**Clause 9 (Withholding of consent to mutual exchange of secure tenancies)**

**The Chairperson:**

The Committee accepted an amendment to allow social landlords to withhold consent to the exchange of secure tenancies on the basis of convictions for anti-social behaviour or serious criminal offences by tenants. The Committee also accepted an amendment to allow consent to exchange to be withheld where an injunction against breach of tenancy agreement was in place and where that injunction related to anti-social behaviour. The Committee agreed to defer consideration of clause 9 pending receipt from the Department of its guidance to the Housing Executive on anti-social behaviour and possession proceedings relating to secured tenancies.

We have received that. The Minister also wrote to provide the draft guidance on mutual exchange refusal that will be issued following the passage of the Bill. Has the Department any further information on anti-social behaviour guidance?

**Mr Stephen Baird (Department for Social Development):**

I do not believe so.

**The Chairperson:**

Is the Committee content with clause 9?

*Question, That the Committee is content with the clause, subject to the Department's proposed amendments, put and agreed to.*

*Clause 9, subject to the Department's proposed amendments, agreed to.*

**Clause 10 (Disclosure of information as to orders, etc. in respect of anti-social behaviour)**

**The Chairperson:**

I understand that the Department wishes to table some technical amendments to clause 10.

**Mr A Campbell:**

They refer directly to the amendments to clause 9; “Ground 2B” needs to be referred to in clause 10.

**The Chairperson:**

Of course. Is the Committee content with clause 10?

*Question, That the Committee is content with the clause, subject to the Department’s proposed amendments, put and agreed to.*

*Clause 10, subject to the Department’s proposed amendments, agreed to.*

**The Chairperson:**

Does anyone want to introduce any further amendments? Are there any johnny-come-latelys? Fra is not bursting through the door. We did put the lock on, did we not?

Since we do not have the text of the Department’s remaining technical amendments, I suggest that the Committee agree the long title and so conclude its clause-by-clause scrutiny.

*Question, That the Committee is content with the long title, put and agreed to.*

*Long title agreed to.*

**The Chairperson:**

I thank Angela, Alastair and Stephen for the many hours that they spent here and for all the assistance that they have given us. Sian, thank you as well.