



Northern Ireland  
Assembly

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COMMITTEE FOR SOCIAL  
DEVELOPMENT

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**OFFICIAL REPORT**  
(Hansard)

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**Pensions Regulator Tribunal  
(Transfer of Functions) Bill**

26 November 2009

**NORTHERN IRELAND ASSEMBLY**

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SOCIAL DEVELOPMENT**

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

Mr Simon Hamilton (Chairperson)

Mrs Mary Bradley

Mr Mickey Brady

Mr Jonathan Craig

Mr Alex Easton

Ms Anna Lo

Ms Carál Ní Chuilín

**Witnesses:**

Ms Margaret Ritchie     )     The Minister for Social Development

Mr Gerry McCann        )     Department for Social Development

Ms Anne McCleary       )     

**The Chairperson (Mr Hamilton):**

Minister, you are most welcome. You are becoming a regular visitor to the Committee.

**The Minister for Social Development (Ms Ritchie):**

Good morning, Chairman and members.

**The Chairperson:**

I am not going to anticipate what the Minister will say, but I expect her to seek the Committee's

agreement for the Pensions Regulator Tribunal (Transfer of Functions) Bill to be subject to accelerated passage.

In accordance with Standing Orders, the Minister has to provide an explanation of the reason, or reasons, for accelerated passage, the consequence of accelerated passage not being granted, and, if appropriate, any steps that the Minister has taken to minimise the future use of the accelerated passage procedure.

The consequences of adopting the accelerated passage procedure are, as members know, that the Committee foregoes the opportunity to review the Bill in detail and to undertake useful exchanges with the Department during Committee Stage. Members of any Committee must always consider carefully their views on the benefits or drawbacks of using the accelerated passage procedure.

I also welcome Anne McCleary, director of the social security policy and legislation division, and Gerry McCann. I will now hand over to the Minister to explain her reasons for seeking accelerated passage.

**The Minister for Social Development:**

Thank you, Chairperson and members of the Committee. I am pleased to have the opportunity to meet you today about the Bill.

Departmental officials briefed the Committee on the proposals in the Bill on 12 November 2009. I propose to introduce the Bill to the Assembly on 30 November 2009. The Tribunals, Courts and Enforcement Act 2007 provides for a new, simplified statutory framework for tribunals, bringing existing tribunals together into a new, unified tribunal service structure. Along with other tribunals, the Lord Chancellor proposes to transfer the functions and members of the Pensions Regulator Tribunal to the new structure with effect from 6 April 2010. From that date, the existing Pensions Regulator Tribunal structure will, therefore, cease to exist. To ensure that people in Northern Ireland have a right of appeal to an independent appeal tribunal against decisions of the Pensions Regulator Tribunal, it is vital that the transfer of the tribunal's Northern Ireland functions takes place from the same date.

The purpose of the Bill is to effect the transfer of functions of the Pensions Regulator Tribunal

in respect of Northern Ireland to the new tribunal service structure. It merely gives effect to the transfers of functions simultaneously with England, Scotland and Wales. The Bill includes provision to allow the Department to make consequential amendments — for example, to subordinate legislation — by way of an Order, subject to the confirmatory procedure, and to make transitional provision to ensure a smooth transfer.

Rights of appeal against a determination of the Pensions Regulator remain unchanged, and appeals against determinations of the Pensions Regulator will continue to be heard by an independent appeal tribunal under the new tribunal service structure. In practical terms, for the end user — that is, the consumer — the only difference will be the name of the tribunal.

The need to seek accelerated passage for the Bill under Standing Order 42 is clear. If we were to use the normal Bill procedure, we would not be sure that the functions would transfer simultaneously to Britain and Northern Ireland. That would result in a situation in which a person in Northern Ireland would have no right of appeal to an independent tribunal against a determination of the Pensions Regulator. We can all agree that the right of appeal is a fundamental right, and we cannot endorse a situation in which people in Northern Ireland are deprived of that right. Not only would it be wrong in principle but we could be in breach of the Convention for the Protection of Human Rights and Fundamental Freedoms, and I do not think that it would be right to take the risk inherent in the normal Bill procedure of leaving people in Northern Ireland without a right of appeal and breaching the convention.

The use of accelerated passage will ensure that the technical Bill can effect the transfers of functions and allow my Department to make the necessary subordinate legislation to ensure that people in Northern Ireland continue to have a right of appeal to an independent tribunal against the determinations of the Pensions Regulator. I am sure that members will agree that it is important that people in Northern Ireland continue to have a right of appeal to an independent appeal tribunal in relation to the determinations of the Pensions Regulator.

In summary, the provisions of the Bill merely give effect to the transfer of functions of the Pensions Regulator Tribunal into the new tribunal service structure, in line with England, Scotland and Wales. They are purely technical in order to effect the transfer of functions so that people in Northern Ireland can continue to have rights of appeal to an independent tribunal.

After that very long explanation, and, for all the reasons that I outlined, I hope that the Committee can support my request to use the accelerated passage procedure.

**The Chairperson:**

Thank you, Minister. That was a useful explanation. I had not thought for one second that by not granting accelerated passage, we could be in breach of human rights provisions. I thought that it was simple and straightforward, but you have given us an additional reason to consider it.

I should have reminded members that the session is being recorded by Hansard. I also remind members that, at the briefing last week, the Pensions Advisory Service advised the Committee that the transfer functions proposed under the Bill would not have any discernable impact on the functions of the Pensions Regulator or the Tribunal.

It appears that members have no questions. Minister, you are that convincing.

**The Minister for Social Development:**

Thank you for your endorsement. I look forward to the First Stage of the Bill, which is purely nominal, on Monday.

**The Chairperson:**

Do members consent to the Pensions Regulator Tribunal (Transfer of Functions) Bill proceeding under the accelerated passage procedure?

*Members indicated assent.*

**The Chairperson:**

The Minister may be a little ahead of herself. It is expected that she will seek the Assembly's approval for the Bill to proceed under accelerated passage on 8 December 2009.