



Northern Ireland (Miscellaneous Provisions) Bill: amendments

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Author: Paul Bowers

Section Parliament and Constitution Centre

The *Northern Ireland (Miscellaneous Provisions) Bill 2013-14* was not amended during its passage through the Commons, nor in the Lords until third reading. The content of the Bill as introduced was described in [Research Paper 13/38](#). The debates as the Bill progressed are listed on the [Bills before Parliament webpage](#). This Note discusses the amendments made at third reading in the Lords. The Bill returns to the Commons on 12 March 2014.

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1 Amendments at Third Reading in the Lords

The Bill was read a third time in the House of Lords on 4 March 2014 at [cc1237-75](#). The Government moved eight amendments, all of which were made without vote.

1.1 Clause 6: size of the Assembly

Clause 6 makes the size of the Assembly a reserved matter. This means that responsibility for it can be transferred to the Assembly by Order in Council, subject to the affirmative procedure in Parliament. At the moment it is an excepted matter, meaning that it cannot be transferred except by primary legislation. This clause was amended by **Amendments 1, 2 and 3**.¹ Concerns had been expressed that the power in clause 6, allowing the Assembly to reduce the number of members returned to it for each Westminster constituency, was too sweeping. Moving the amendments, Baroness Randerson stated that the Government recognised the concern that the larger parties could legislate for a substantial reduction in Assembly size, which might affect disproportionately the smaller parties.² The amendments were designed to limit any reduction to a total of five per constituency (there are six at present, so the reduction is by one). This reduction must also have cross-community support in the Assembly.

Lord Empey raised a concern that the size of the Assembly could also be reduced if the number of seats at Westminster were reduced, and the combined effect of the new powers in clause 6 and a reduction of Westminster constituencies could be a significant fall in the number of seats in the Assembly.³ Baroness Randerson responded that the Assembly would also have the power to reverse the reduction in the number of seats per constituency, and thus offset any impact on the size of the Assembly as a result of changes at Westminster.⁴

1.2 Clause 10: Civil Service Commissioners for Northern Ireland

Clause 10 puts the Civil Service Commissioners for Northern Ireland into the reserved category, so that they may be devolved (“transferred”) by Order in Council. **Amendment 5** introduced a new requirement that, at least three months prior to seeking parliamentary approval for an Order to transfer responsibility to the Assembly, the Secretary of State must report to Parliament on the effect that the transfer would have on the independence of the Commissioners, on the principle that appointments should be based on merit after fair and open competition, and on the impartiality of the Northern Ireland Civil Service.⁵

¹ [HL Deb 4 March 2014, cc1237-57](#)

² [HL Deb 4 March 2014, c1237](#)

³ [HL Deb 4 March 2014, c1238](#)

⁴ [HL Deb 4 March 2014, c1251](#)

⁵ [HL Deb 4 March 2014, c1264](#)

In moving the amendment, Baroness Randerson gave a commitment that “any future devolution of responsibility for the Civil Service Commissioners would be subject to prior public consultation. This is not a statutory matter, but I reiterate that commitment here today.”⁶ In addition, the amendment requires the Secretary of State to report three months before bringing forward an Order, with the intention that Parliament has enough time to debate and influence the proposals. Baroness Randerson added that the present Government would facilitate such a debate. This is intended to offset the fact that the Order itself, as secondary legislation, could only be approved or rejected, not amended.

1.3 Clause 11: Northern Ireland Human Rights Commission

Clause 11 concerns the Northern Ireland Human Rights Commission, and likewise puts its functions, and appointments to it, in the reserved category. Baroness Randerson gave similar undertakings on this matter as on the Civil Service Commissioners for Northern Ireland: there would be public consultation before any devolution of the Human Rights Commission, and the present Government would facilitate a debate in Parliament.⁷ **Amendments 6 and 7** created a requirement for the Secretary of State, at least three months prior to laying an Order before Parliament to transfer the matter to the Assembly, to report on the effect of the transfer on the independence of the Northern Ireland Human Rights Commission, on the application of internationally accepted principles relating to national human rights bodies, and on the relationship between the Commission and the Assembly.⁸

1.4 Clause 28: commencement

Clause 24 amends an order-making power under the *Protection of Freedoms Act 2012*, which allows the Secretary of State to regulate the use of biometric data for excepted and reserved matters once the Assembly has passed relevant criminal justice legislation. The provision in the 2012 Act referred to legislation in 2011 or 2012, but the date of the Northern Irish legislation was 2013, so the dates needed to be changed: this is done by clause 24. **Amendments 8 and 9** make a further technical change, adjusting the commencement of clause 24 so that it waits until the commencement of the power in the 2012 Act. This is by means of an amendment of clause 28, the commencement clause.

⁶ [HL Deb 4 March 2014, c1265](#)

⁷ [HL Deb 4 March 2014, c1269](#)

⁸ [HL Deb 4 March 2014, c1269 and 1272](#)