Government Response to the Northern Ireland Affairs Committee Pre-Legislative Scrutiny Report on the draft Northern Ireland (Miscellaneous Provisions) Bill

Presented to Parliament
by the Secretary of State for Northern Ireland
by Command of Her Majesty

May 2013

Government Response to the Northern Ireland Affairs Committee Pre-Legislative Scrutiny Report on the draft Northern Ireland (Miscellaneous Provisions) Bill

Presented to Parliament
by the Secretary of State for Northern Ireland
by Command of Her Majesty

May 2013

Cm 8621 £6.25

ISBN: 9780101862127

Printed in the UK by The Stationery Office Limited
on behalf of the Controller of Her Majesty's Stationery Office

ID 2560043 05/13

Printed on paper containing 75% recycled fibre content minimum.

Introduction

1. The draft Northern Ireland (Miscellaneous Provisions) Bill was published on 11 February 2013 for pre-legislative scrutiny.

2. The draft Bill had its origins in consultations published by the Northern Ireland Office on *Measures to Improve the Operation of the Northern Ireland Assembly* (August 2012) and on *Donations and Loans to the Northern Ireland Political Parties* (August 2010). It contained a number of draft measures to effect institutional change in Northern Ireland, including ending dual mandates between the Northern Ireland Assembly and the House of Commons; providing more transparency in party funding; and implementing changes to the arrangements for the appointment and dismissal of the Northern Ireland Justice Minister. The draft Bill also contained draft measures which would implement a number of significant improvements to the administration of elections in NI, following recommendations made by the Electoral Commission and Chief Electoral Officer for NI.

3. The Northern Ireland Affairs Committee, which undertook pre-legislative scrutiny, took oral evidence from 15 sets of witnesses at Stormont and Westminster. Its report, containing 24 recommendations, was published on 25 March 2013.

4. The Government is most grateful to the Committee for its consideration of the provisions in the draft Bill, and particularly for the comprehensive analysis which was produced in the short time available to them. The recommendations cover various issues, which have been considered carefully.

5. This response addresses each recommendation, following the order of the Committee's report.

Recommendations and Government response

Political donations and loans

Recommendation 1

We recommend that Clause 1(3) be amended so as to provide that the Electoral Commission can disclose donor identity only where there is express consent from the donor, for donations made before October 2014. As drafted, the Electoral Commission needs only show reasonable grounds to believe there was consent before breaching confidentiality. This does not correspond with the legitimate expectation of those donors who donated on the basis that their donation would be confidential. (Paragraph 11)

The Government has discussed this recommendation with the Electoral Commission. The Commission voiced concerns about the change, which would create a strict liability offence. This would mean that Electoral Commission staff would have no defence in court if information were disclosed when consent had not actually been given, whatever the circumstances in which this happened and however reasonable their belief that consent had been given. In a situation where there was strong evidence that consent had been given but this was not in fact the case (for example if the Commission received paperwork signed by the donor with an assurance of validity from the recipient, which was later discovered to be forged) Electoral Commission staff would still face a real risk of criminal conviction. To manage that risk would require additional identity checks to be imposed, which would be disproportionately burdensome for the Commission, parties and donors. The proposed change would also create inconsistency with other provisions on the release of information on donations and loans elsewhere in the Political Parties Elections and Referendums Act 2000 (PPERA), for example section 71E(4) (duty not to disclose contents of donation reports).

For these reasons, the Government has decided to retain the original drafting of Clause 1(3). However, we will make specific provision for the consent arrangements that will apply to disclosure of information about past donations and loans in secondary legislation.

Recommendation 2

Full transparency of donations and loans should be regarded as the norm and in principle, therefore, we would like to see political donations and loans in Northern Ireland subjected to the same regime that operates in Great Britain as soon as possible. Given the apparent insignificant level of donations over the £7,500 threshold, and the overall improvement in the security situation, we are not convinced that there is sufficient evidence to justify continuing the current position and

we therefore recommend that from October 2014 all donations over £7,500 in Northern Ireland should be made public as in Great Britain. (Paragraph 29)

If the provisions of the Bill are not brought into force and the prescribed period is not extended, Northern Ireland would become subject to the rules operating elsewhere in the UK from October 2014; with full transparency over political donations. The Government considered the possibility of responding to this recommendation by limiting the application of the Bill provisions to donations made before October 2014 and retaining the current arrangements for the rest of the donations regime. However, while such a change would permit the Secretary of State to decide in October 2014 between retaining anonymity and full transparency, it would prevent the possibility of implementing any intermediate options between these two extremes. We feel the security situation continues to justify a different regime for Northern Ireland and therefore wish to retain flexibility as to how much transparency to provide after October 2014.

We have, therefore, decided to retain the original drafting, which removes the automatic reversion to the GB regime, but allows the Secretary of State maximum flexibility in setting the donations regime after October 2014, in light of the circumstances then prevailing. In light of the Committee's report, we will consider very carefully any restrictions on transparency after October 2014.

Recommendation 3

We recommend that the substantive Bill places a statutory duty on the Secretary of State to consult with the appropriate security authorities on the general level of risk to political donors before modifying the current confidentiality arrangements in implementing the [previous] recommendation. (Paragraph 34)

We agree with the Committee that it would be important to consult with the appropriate security authorities, such as the Police Service of Northern Ireland (PSNI), before making changes to current confidentiality arrangements. We would certainly carry out the consultations recommended but feel that there is no need to enshrine this commitment in legislation.

Recommendation 4

We recommend that the NIO use the new order-making power created by the draft Bill to allow the Electoral Commission to publish anonymised details of all individual donations and loans that have been reported since 2007. The Electoral Commission should also be able to indicate where multiple donations have been made by a single anonymous donor. (Paragraph 37)

The Government accepts the Committee's recommendation. We will introduce draft secondary legislation allowing for the publication of anonymised donations once the Northern Ireland (Miscellaneous Provisions) Bill is passed.

Care will be needed to ensure that no information is published which enables the identity of donors to be worked out.

We agree that it would be preferable for that information to indicate where multiple donations have been made by the same donor. However, initial consultations suggest that it may not be possible to do this reliably because the information that donors are required to report to the Electoral Commission under the Political Parties, Elections and Referendums Act 2000 does not include a unique identifier. We will consider this matter further as secondary legislation is developed. Secondary legislation put forward in this area will be subject to consultation to assist in resolving questions of this nature.

Recommendation 5

While we understand the concerns raised about the potential influence of non-UK residents on elections in Northern Ireland, we do not consider that it would be appropriate to ban donations from individuals and bodies resident in the Republic of Ireland. However, we are concerned about overseas donations being made to political parties operating in Northern Ireland via the Republic of Ireland. We recommend that the Secretary of State includes provisions in the substantive Bill that will close this loophole. (Paragraph 44)

Section 71B of the Political Parties Elections and Referendums Act 2000 gives the Secretary of State the power to prescribe in secondary legislation the conditions under which Irish citizens or bodies are permissible donors to Northern Ireland parties, providing they would be entitled under Irish law to donate to an Irish political party. This is not therefore a matter on which primary legislation is required. We are giving further consideration to this recommendation and we are discussing the options with colleagues in the Irish Government.

Dual Mandates

Recommendation 6

Being an MP or an MLA is a full-time commitment, requiring focus and diligence. However, we believe that a varied legislature is a vibrant one, and Parliamentarians should not be prevented from outside employment. The quality of debate is increased when MPs bring a different expertise to the chamber. But that is different from the responsibilities of sitting in separate legislatures, and we welcome the Government's decision to end double-jobbing. (Paragraph 58)

Recommendation 7

We take the view that the abolition of dual mandates should be applied consistently across both Houses of Parliament, and recommend that the Government include a provision in the substantive Bill to this effect. The

role of an MLA is a full-time role, just as is the role of an MP. Notwithstanding the distinctions in roles and appointment of members of the House of Lords, we do not consider that the Assembly is best served by members who have other responsibilities in other legislatures. (Paragraph 66)

Acting to end double jobbing between the House of Commons and the Assembly is a proportionate response to the significant concerns expressed regarding this practice over a number of years. Concern on a similar scale is not present in relation to peers and we do not propose to introduce a bar on dual mandates between the Lords and the Assembly. The differences between the Lords and the Commons mean that there are not compelling reasons to treat the two Houses in the same way with regard to the rules on dual mandates. Membership of the House of Lords is not time limited by the electoral cycle. Peers are not elected; they have no constituency role; and continuance of careers outside Parliament has long been a feature of the House of Lords.

Recommendation 8

We consider that it would be illogical and potentially inflammatory, to establish a position whereby a member of the UK Parliament was excluded from being an MLA but a member of any other legislature was not. We recommend that a provision be inserted into the substantive Bill, which would amend section 1(e) of the Northern Ireland Assembly Disqualification Act 1975, as amended by the Disqualifications Act 2000, so as to disqualify a member of the Oireachtas, from sitting simultaneously in the Northern Ireland Assembly. Evidence we have received from all political parties in Northern Ireland suggests that such a disqualification would have broad political support. (Paragraph 75)

The Government accepts the Committee's concerns and acknowledges that barring the holding of dual mandates between the Assembly and the House of Commons, but not the Dáil Éireann, would be difficult to justify. In response to this recommendation, we have amended the provisions put forward in the draft Bill to add in a clause to end dual mandates with the Dáil Éireann. As the Government is not making provision to end dual mandates between the Northern Ireland Assembly and the House of Lords, no provision is made to ban members of the Seanad Éireann (the Irish upper House) from also sitting in the Northern Ireland Assembly. The Government notes that later this year the Irish Government is likely to hold a referendum on the abolition of the Seanad.

Recommendation 9

We also recommend that the substantive Bill contains a provision to disqualify members of Commonwealth legislatures from sitting in the Assembly. If we disqualify MPs and TDs, on the basis that dual mandates are not effective, then that principle should be extended to Commonwealth legislatures as well. (Paragraph 76)

Recommendation 10

Whilst we appreciate that disqualification from the European Parliament is a matter for the European authorities, we believe that a prohibition on dual mandates should extend to MEPs in the Assembly. The Government should legislate to provide that individuals are ineligible for Assembly membership if already MEPs. Such legislation would not interfere with the workings of the European Parliament, but would be within the powers of the UK Parliament to decide which individuals are eligible for membership of the Northern Ireland Assembly. (Paragraph 80)

The Government is not aware of any ongoing concern regarding the holding of dual mandates between the European Parliament, the Commonwealth legislatures, and any of the devolved Parliaments or Assemblies in the United Kingdom. If there is a need to legislate, though, we do not believe that a Northern Ireland-specific Bill would be the appropriate vehicle, and that consideration would need to be given as to whether action should be taken on a UK-wide basis. No provision to this effect is included in the Northern Ireland (Miscellaneous Provisions) Bill.

Recommendation 11

We recommend that the Government brings forward measures to prohibit double-jobbing between the Scottish Parliament and Westminster. Maintaining the alternative position would no longer be tenable, as dual mandates would be prohibited in respect of both Northern Ireland and Wales. Logic and even-handedness dictate that such a prohibition must be applied to Scotland as well. (Paragraph 84)

The issue of dual mandates between Westminster and the Scottish Parliament is not one which could be appropriately addressed in a Northern Ireland-specific piece of legislation. No provision to this effect is included in the Northern Ireland (Miscellaneous Provisions) Bill.

The Secretary of State for Wales announced in March 2013 that the Government will bring forward legislation to prohibit Members of the Welsh Assembly from sitting simultaneously as Members of the House of Commons at the earliest opportunity.

Justice Minister

Recommendation 12

We welcome the proposals which allow the Justice Minister to enjoy the same security of tenure as other ministerial posts. We accept that, at present, the Justice portfolio is sensitive in ways other ministerial portfolios are not and so we agree that the retention of a cross-community vote in appointing the Justice Minister is appropriate for the

meantime. We welcome the decision to appoint the Justice Minister immediately after the First Minister and deputy First Minister, thus remedying the current anomaly where the party holding the Justice Ministry is afforded an 'additional' ministerial post disproportionate to its electoral performance. (Paragraph 94)

Recommendation 13

Following the successful election of the First Minister and deputy First Minister, it is vital that the Executive be appointed. We would not wish to see the formation of the Executive jeopardised by failure to appoint a Justice Minister. We recommend that the substantive Bill include a mechanism to provide for the appointment of the Justice Minister in the absence of political agreement between parties following an Assembly election. (Paragraph 98)

While the Committee's recognition of the importance of the Justice Minister's position is shared by the Government, the appointment of Ministers in the Northern Ireland Executive relies on the major Northern Ireland political parties agreeing to work together once Ministers take up their posts. The arrangements for the selection of the Justice Minister were the subject of careful and protracted negotiation prior to the devolution of policing and justice in 2010, and the First and deputy First Minister confirmed in 2012 that they wished to see the existing arrangements continue.

We are not aware of any potential mechanism for the appointment of the Justice Minister in the absence of the agreement of the political parties, as the Committee has recommended, which would command broadly based support amongst the political parties in Northern Ireland. While we appreciate the concerns expressed by the Committee, we do not feel that the change advocated is needed at this time and therefore would not propose re-opening the settlement agreed on policing and justice.

Electoral Registration and Administration

Recommendation 14

We had some concerns that Clause 10 may inadvertently penalise persons suffering from serious illnesses or learning difficulties in instances where their signature appears different from their usual signature. Clarification is needed on the face of the substantive Bill to ensure that honest voters are not penalised by this clause. (Paragraph 101)

This provision – which creates a new offence of providing false information in an application for an electoral identity card – has no direct equivalent in Great Britain. However, the proposed section 13CZA of the Representation of the People Act 1983 replicates language already used in section 13D and section 13CA of that Act in relation to provision of false information for any purpose

connected with the registration of electors. Section 13D applies to the whole of the UK.

Section 10A(1B) of the Representation of the People Act 1983 makes clear that the Chief Electoral Officer for Northern Ireland may dispense with the requirement for a signature to be provided in relation to an application for electoral registration if he is satisfied that it is not reasonably practicable for a person to sign in a consistent or distinctive way. In general therefore, persons suffering from serious illnesses or learning difficulties such that they are unable to sign their name consistently should not be required to provide a signature for registration purposes.

We also believe that a person who signed with a signature which was different to one they had used in the past would not fall within the offence in new section 13CZA (or the offence in section 13D) simply because their signature had changed. This is because the new signature would be their 'usual' signature at the time of signing; the fact that it had changed from what it was because of illness, would not engage the offences associated with these provisions. Furthermore, both the new section 13CZA and the existing section 13D provide that a person does not commit an offence if he did not know, or had no reason to suspect, that the information was false. The Government considers that a person suffering from serious illness or disability is likely to fall into that category and therefore would not be committing an offence. We have made clear that this is our intention in the Explanatory Notes to the Bill.

Given the UK-wide application of the offence in section 13D, the Government also believes that changes to the law on providing false information for electoral purposes should be considered on a UK-wide basis, which is not within the scope of this Bill. We are grateful to the Committee for raising the issue in its recommendations, and for the opportunity to provide clarification on the effect of the clauses, but we believe that this should be sufficient to allay any concerns. Provision has not, therefore, been included in the NI (Miscellaneous Provisions) Bill along the lines suggested by the Committee.

Recommendation 15

We welcome the provisions in the draft Bill to improve electoral registration in Northern Ireland and support of measures which would assist the Chief Electoral Officer in building an accurate and complete electoral register. We recommend that the Government consult with key stakeholders to assess whether it would be feasible and desirable to insert an additional Clause in the substantive Bill which would allow the Registrar General and the staff of the Northern Ireland Statistical Research Agency (NISRA) to make use of electoral registration information for the purposes of statistical and analytical work connected to the census. (Paragraph 103)

In line with the Committee's recommendations, the Government intends to introduce amendments to the Representation of the People (Northern Ireland) Regulations 2008 to enable data sharing between the Chief Electoral Officer

for Northern Ireland and the Northern Ireland Statistics and Research Agency (NISRA), including the use of electoral registration information for the purposes of statistical work connected to the census. The substantive Bill also now contains provision to extend Schedule 2 of the Electoral Registration and Administration Act 2013 to Northern Ireland. This will allow the Secretary of State to make regulations about the sharing of data obtained from individuals or other public authorities for the purpose of electoral registration, following consultation with the Electoral Commission, the Information Commissioner and any other person the Secretary of State deems appropriate.

Recommendation 16

In principle, we would like to see the Chief Electoral Officer in Northern Ireland subjected to the same performance standards as apply in the rest of the UK. We recommend that the Government considers the outcome of the current performance standards pilot, which is due to end in March 2013, and, if appropriate, insert a new clause in the substantive Bill to extend the performance standards to the Chief Electoral Officer in Northern Ireland. (Paragraph 109)

The Government has made provision in the Bill giving the Secretary of State a power to introduce objectives or performance standards for the Chief Electoral Officer for Northern Ireland by order, rather than through primary legislation. The Government has chosen this route, rather than extending the performance standards immediately, because the results of the current pilot are not yet available and, although the Northern Ireland parties have been asked for views on this change, no response has yet been received. The current reporting system reflects the Chief Electoral Officer's position as a statutory office holder. The Government will need to consider carefully how best to amend the current reporting requirements on the Chief Electoral Officer, to avoid an excessive bureaucratic burden, while maintaining those links between the Chief Electoral Officer and the Secretary of State, which are essential for each to fulfil their duties in law.

Equality Duties

Recommendation 17

We recommend that the substantive Bill confirms that Clause 11 will not be used to partially designate a public authority which is already subject to a full designation in Northern Ireland. We also recommend that the Government outline the limited purposes for which this power will be exercised and consider what, if any, safeguards should accompany it, so as to ensure that public authorities which may usefully be fully designated continue to be so. (Paragraph 113)

The intention of the clauses relating to the designation of persons or bodies under section 75 is to permit partial designation where none is currently possible, thus extending the range of bodies which might be subject to section 75 duties. The Government can outline the principles under which bodies

might be partially designated as required when the Bill progresses through Parliament, but full consideration and consultation around the potential partial designation of a given authority can only properly take place when the Secretary of State is considering such a designation at a later date.

We can, however, be clear now that there is no intention to partially designate any public authorities which are already subject to full designation in Northern Ireland. While this confirmation does not require redrafting of the clauses as published for pre-legislative scrutiny, clarification of these points has been included in the Explanatory Notes accompanying the Bill.

Regulation of Biometric Data

Recommendation 18

Clause 13 of the draft Bill is a sensible way to ensure that the Secretary of State can bring into force an Order for non-devolved matters, to correspond with any Northern Ireland Assembly legislation on the regulation of biometric data in respect of devolved matters, if and when the Assembly chooses to legislate. We expect that the decision to legislate in the Assembly will no doubt be subject to scrutiny in terms of human rights, privacy and adequate safeguards, and that process of scrutiny should be undertaken carefully. (Paragraph 117)

As the Committee has noted, this recommendation is effectively for the devolved administration in Northern Ireland to consider as it sees fit.

Size of the Assembly

Recommendation 19

Compared with the Scottish Parliament and with the National Assembly for Wales, the size of the Northern Ireland Assembly is disproportionately high, and there is clearly scope to reduce the number of MLAs. We understand that the formula for the number of MLAs is determined in part by the number of Departments in the Northern Ireland Executive and we look forward to the AERC's findings. Any decision on this matter should be taken only with broad support from political parties in Northern Ireland and so we urge the Government to continue to engage with the parties and take appropriate steps to facilitate the emergence of a consensus position on the optimum size of the Assembly. (Paragraph 129)

The Government has continued to engage with the political parties in Northern Ireland on this issue. It is unfortunate that the Northern Ireland Executive has been unable to reach a concluded view on the number of Members of the Legislative Assembly (MLAs) in the future, particularly as we believe that a reduction would have considerable public support.

However, a provision is included in the Bill which would have the effect of making reductions in the size of the Assembly a 'reserved' rather than an 'excepted' matter. This would mean that if the Northern Ireland parties were to agree to a reduction at some point in the future, further primary legislation at Westminster would not be required to implement this reform. Reduction in the numbers of MLAs could be implemented by an Act of the Assembly, followed by the Secretary of State granting consent and bringing forward an Order in Council. Such an Order would be subject to the affirmative resolution procedure in Parliament.

Length of current Assembly term

Recommendation 20

We are concerned that extending the current term to 2016 would be contrary to the expectations of the electorate at the last Assembly election in 2011, and recommend, therefore, that the current Assembly term should end, as planned, in 2015. (Paragraph 133)

The Fixed Term Parliaments Act 2011 introduced a fixed electoral cycle for the House of Commons and the next Westminster election will take place in May 2015. It was recognised during the passage of this Act that 7 May 2015 was set out in legislation as the date of the next elections to the devolved administrations in Northern Ireland, Scotland and Wales. Provision was made to extend the term of the current Scottish Parliament and National Assembly for Wales terms in the 2011 Act, following votes in those assemblies where a two thirds majority expressed support for the proposal.

The Government committed to revisit the issue of the length of the current term for the Northern Ireland Assembly following the 'triple poll' in May 2011 (Northern Ireland Assembly and local council elections, and the referendum on the Alternative Vote).

The Secretary of State has stated that a term extension could be provided if the Northern Ireland Executive was able to demonstrate broadly based support for the plan. On 12 June 2012 Northern Ireland's First Minister Peter Robinson, deputy First Minister Martin McGuinness and Justice Minister David Ford wrote to then Secretary of State Owen Paterson making clear the view of their respective parties that they wished to see the current term of the Northern Ireland Assembly extended until May 2016, in common with the Scottish Parliament and Welsh Assembly elections. That position was confirmed in a letter to the current Secretary of State dated 15 April 2013 from the First Minister and deputy First Minister.

The Government has concluded that Northern Ireland should be treated the same as Scotland and Wales and the Bill will therefore propose an extension of the current Assembly term. It establishes consistency in the electoral cycle for each of the devolved institutions across the United Kingdom.

Future election dates

Recommendation 21

We have not heard convincing arguments that a move to five year fixed terms on a permanent basis would be of benefit to the people of Northern Ireland. We recommend that, before making a decision on whether to permanently move to a five year fixed term, the Government should evaluate the impact this move would have on all those who are involved in the electoral process. After this study, we recommend that the Government reconsider whether a permanent move to five year fixed terms would be appropriate for the devolved legislatures in Northern Ireland and Scotland as well as in Wales. (Paragraph 139)

The Government notes the Committee's recommendation. Given the move toward five year fixed terms at Westminster and for the National Assembly for Wales, and the views of the Northern Ireland political parties, we are content that it is sensible to make provision in the Bill which would have the effect of also moving the Northern Ireland Assembly to five-year fixed terms.

Recommendation 22

We welcome the changes the Chief Electoral Officer is making to help improve planning for future elections. We urge the Government to assist the Chief Electoral Officer in his planning by providing him with notice of future election dates by November 2013 and ensuring that any legislation for combined polls is in place six months in advance of an election taking place. (Paragraph 148)

The Government recognises the importance of ensuring that electoral administrators have sufficient time to plan. The timing of some elections is not within our control, but we aim to ensure that legislation is in place six months before elections in Northern Ireland wherever possible.

Recommendation 23

Therefore, we recommend that the Government commission a comprehensive UK wide research study which explores the impacts of combining elections. This would then provide an evidence base for informing future decisions about combined polls. (Paragraph 151)

The combination of polls is a matter of wider Government electoral policy and we agree that it should be considered in that context. Some cite the benefits of combination including convenience for electors and the cost savings which can be achieved through administering polls together. The Law Commission is conducting a review of electoral law on behalf of the Cabinet Office, and is looking at the combination of elections as part of its review. The Government will consider the recommendations of the Law Commission's review.

Government and Opposition

Recommendation 24

We note that Assembly and Executive Review Committee is currently reviewing the issue of procedural changes in the Assembly, which touch on the question of opposition. We look forward to considering those findings in detail. We note that there appears to be some appetite for a shift towards an 'official' opposition within the Assembly. Such an opposition would have to be fully funded and resourced, and we encourage the Government to assist the parties in devising a way forward. Any alternative arrangements should be guided by the fundamental principle in the Belfast (Good Friday) Agreement.
(Paragraph 158)

The Government notes the Committee's comments. We recognise that system of Government and Opposition as traditionally understood may promote a more effective and innovative system at Stormont, and hope that the Northern Ireland parties will continue to consider potential methods which might further improve the operation of the institutions. It is clear that sufficient consensus does not exist amongst the parties at present for the Government to legislate on this matter. We will, of course, work with the parties should they agree any changes to the institutions along these lines which would require Westminster legislation in the future.

Devolution of responsibility for Arms-Length Bodies

Recommendation 25

We note that the Government has not yet consulted on the proposed devolution of responsibilities for arms-length bodies. The Northern Ireland Human Rights Committee is just one body potentially affected by this proposal. It is a unique institution, with its origins in the Belfast (Good Friday) Agreement. We recommend that the Government consult on the devolution of responsibility for arms-length bodies before making any changes to arrangements relating to the NIHRC. We therefore request that the Government consult widely on this issue before bringing forth draft provisions for inclusion in the substantive Bill.
(Paragraph 167)

The Government recognises the institutional significance of the NIHRC and the importance of its work. We note the Committee's comments. The Bill includes provision to re-categorise certain functions relating to the arms-length bodies in question as 'reserved' matters under the terms of the Northern Ireland Act 1998. This change will enable any future devolution of functions to be achieved without further primary legislation, and for the Assembly to legislate in relation to these matters with the consent of the Secretary of State. The substantive Bill does not actually devolve responsibilities. The Government is committed to consulting formally on any

future devolution of responsibilities relating to the NIHRC and the other arms-length bodies discussed, prior to any such devolution taking place.

Recommendation 26

We recognise the importance of the NIHRC's independence and accountability. We note that it has full participation rights at the UN Human Rights Council. The Government must ensure that any proposal that affects responsibility for NIHRC must not put at risk its accreditation and compliance with the Paris Principles.
(Paragraph 168)

The Government accepts the Committee's recommendation and commits to considering this issue prior to any future devolution of responsibilities for the NIHRC taking place. No decision on devolution will be taken which risks the international standing of the NIHRC.

Recommendation 27

We advise this approach in the event that the Government does decide to devolve responsibility for arms-length bodies: we recommend that those responsibilities be devolved to the Northern Ireland Assembly. This would be consistent with good international practice, as set out in the Belgrade Principles. We further recommend that, if responsibility for the NIHRC is devolved to the NI Assembly, that the NIHRC should still be able to retain responsibility for the scrutiny of non-devolved matters such as national security and terrorism. The NIHRC provides valuable scrutiny of policy and protects human rights, and no proposal should inhibit its effectiveness.
(Paragraph 170)

The Government agrees with the Committee's recommendation and will ensure that the NIHRC retains its responsibility for the scrutiny of non-devolved matters relating to Northern Ireland in the event of any future devolution of responsibilities for the institution.

Treatment of the Bill in the House

Recommendation 28

We therefore agree with the Secretary of State's implication that the Bill's Second Reading debate should be taken on the Floor of the House, and we so recommend. (Paragraph 172)

Recommendation 29

We therefore recommend that its committee stage should not be undertaken in a Public Bill Committee but, following Second Reading,

the Bill should be committed to a Committee of the whole House.
(Paragraph 173)

The Government notes the Committee's recommendations.

Published by TSO (The Stationery Office) and available from:

Online
www.tsoshop.co.uk

Mail, telephone, fax and email
TSO
PO Box 29, Norwich NR3 1GN
Telephone orders/general enquiries: 0870 600 5522
Order through the Parliamentary Hotline Lo-Call 0845 7 023474
Fax orders: 0870 600 5533
Email: customer.services@tso.co.uk
Textphone: 0870 240 3701

The Houses of Parliament Shop
12 Bridge Street, Parliament Square,
London SW1A 2JX
Telephone orders/general enquiries: 020 7219 3890
Fax orders: 020 7219 3866
Email: shop@parliament.uk
Internet: http://www.shop.parliament.uk

TSO@Blackwell and other accredited agents

ISBN 978-0-10-186212-7