



Northern Ireland
Assembly

Committee for Health

OFFICIAL REPORT (Hansard)

Subordinate Legislation

6 February 2020

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Colm Gildernew (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Ms Sinéad Bradley
Ms Paula Bradshaw
Mr Gerry Carroll
Ms Jemma Dolan
Mr Alex Easton
Ms Órlaithí Flynn

The Health and Personal Social Services (Superannuation) and Health and Social Care Pension Scheme (Amendment) Regulations (Northern Ireland) 2019

The Chairperson (Mr Gildernew): Members, we return to the Health and Social Care (HSC) pensions regulations that were discussed last week. The Examiner of Statutory Rules has raised no issue with the statutory rule (SR).

Members will recall that the Department indicated that it is willing to ask the HSC Pension Scheme Advisory Board, which comprises employers and the unions, to look into the issues that we raised about the impact of current policies on part-time workers and any potential for indirect discrimination. Are members content, in the first instance, that we write to the Department to confirm that we wish take up that offer?

Members indicated assent.

The Chairperson (Mr Gildernew): Secondly, as we were briefed, to seek to annul the regulations would remove the legal underpinning for the current pension system, without there being anything to put in its place. I therefore suggest to members that we scrutinise pensions policy going forward, rather than object to the rule. Do members have any views on that?

Ms Bradshaw: It is a sensible suggestion.

The Chairperson (Mr Gildernew): OK. Do members have any further issues that they wish to raise in connection with the SR? If not, I ask members to agree formally that the Committee for Health has considered SR 2019/62, the Health and Personal Social Services (Superannuation) and Health and Social Care Pension Scheme (Amendment) Regulations 2019 and has no objection to the rule.

Question put and agreed to.

The Provision of Health Services to Persons Not Ordinarily Resident (Amendment) Regulations (Northern Ireland) 2019

The Chairperson (Mr Gildernew): Members will recall that we discussed the SR on 23 January. It provides for continuation of healthcare entitlements for certain categories of people should the UK exit the EU without an agreement. No issue has been raised by the Examiner of Statutory Rules. A response from the Department to our request for further information has been received and is in members' tabled papers.

First, the Department advises that the SR has been deferred, as it was prepared in case the UK exited the EU without an agreement. Secondly, the Department has stated that the provisions are to be reviewed ahead of 31 December and are subject to future negotiations.

We want to scrutinise Brexit policy, so do members feel that there are issues with the SR?

Mr Carroll: My understanding from reading it is that the SR undermines the basis of the NHS and paves the way for charging people who are seeking the right to remain here. I just want some clarity on that. If that is the case, it would create a hierarchy of people who are unwell and need treatment. That is my reading of it, and if that is the case and it is paving the way potentially to charging people for treatment, I have serious problems with it. That is something to which I, and I am sure others, would be opposed.

Ms Dolan: I have concerns about this as well, and they are the same concerns that we shared the previous day about there being no guarantee of healthcare provision for frontier workers who begin work in the North after exit day. There is no guarantee of healthcare provision for students who arrive, and we need to attract workers and students to the North. If the attraction of healthcare is taken away, that leaves us in serious bother. It also leaves us vulnerable and exposed to regressive measures if one state withdraws reciprocal rights, so I also have serious concerns about the SR.

The Committee Clerk: I have to say to members to bear in mind that the Department's advice is that the SR is not in force any more. The Department has deferred it. Objecting to it is something that the Committee can do, technically speaking, but members may wish to consider the fact that the Department has advised that the regulations have been deferred and that nothing will be put in their place until the end of December at the earliest, subject to what is negotiated this year. Therefore, it is something that members have a bit more time to consider and reflect on. Members can come up with proposals to influence the Department as part of their Brexit scrutiny, if that is satisfactory.

The Chairperson (Mr Gildernew): With that being so, why would we agree to it at this point?

The Committee Clerk: Members are not asked to agree to it as such. They are being asked whether they wish to object and then table a motion for debate in the Assembly objecting to the statutory rule, but they would be objecting to something that we have been told has been deferred already.

Ms S Bradley: Does it therefore need to be tabled at this Committee if it has been withdrawn or deferred?

Ms Flynn: That is the confusion for me, because the statutory rule was based on there being a no-deal exit from the European Union, which is not the case. There is no point in us passing a statutory rule that was designed for a no-deal Brexit when there has not been a no-deal Brexit. Setting aside all the flaws there, which have been pointed out already, I would not be content even to pass it to have it deferred, as it was already flawed to begin with.

If we were to start a new process with the Department that looked at the forward work planning around the Brexit scenario at the end of the negotiations, this would not be a good starting point for me. I am not content with the SR as it is and would not be content to support deferring it, if that makes sense.

Ms Bradshaw: I come back to a point that I raised before about departmental officials giving us an update on their planning, but they should do so sooner rather than later. I appreciate that you are talking about December, but the sooner that we start to interrogate what is being proposed, the better, because officials may need to come back two or three times between now and December. I stress the urgency to the Department.

Ms S Bradley: I know that we have been asked to comment, but are we in a position today to note the SR with expressed objections rather than do anything else? There are minefields here. I am sure that the Committee for the Economy Committee will have an interest in how seasonal workers would be affected, for example. There are so many holes in the SR that have not been properly discussed and issues that do not rest exclusively with us. I am keen to do little more than note it at this stage.

The Chairperson (Mr Gildernew): Do members feel that that is appropriate?

Do I need to put the Question, or do we simply note the SR?

The Committee Clerk: You just note it.

The Chairperson (Mr Gildernew): OK.

Mr Carroll: Will the Department be notified that concerns have been raised? How does that process work?

The Committee Clerk: I can advise members that we have flagged with the Department that I expect that the Committee will be looking for a briefing on Brexit and to start its policy scrutiny within the next month or so.

The Chairperson (Mr Gildernew): If the Department is going to bring forward such SRs, which are to remain on a shelf until December time, it needs to provide a rationale for doing so. That has not been the case here, to be honest.

Thank you, members.