

From: Michael Foster
Assistant Director of Law Reform

cc: As below

Date: 23 March 2004

PS/Ian Pearson (DFP, B&L)

CIVIL PARTNERSHIP BILL

Objective: To provide briefing in advance of LP Committee meeting on the inclusion of Northern Ireland clauses in the Civil Partnership Bill and the handling of the decision to proceed with the establishment of civil partnership here.

Issue: LP Committee meets Tuesday 23 March to agree the introduction to the Lords of the Civil Partnership Bill.

Timing: URGENT.

Presentational issues: The negative response of individuals to the proposal to establish civil partnership in Northern Ireland was to be expected. The support of many representative organisations has been very encouraging. The consultation has not persuaded Ministers to retreat from their proposal to establish civil partnership in Northern Ireland on grounds of social justice and equality. The Minister has received a submission outlining a media handling strategy.

Recommendations: The Minister is invited to note the briefing material at Annex A.

BACKGROUND

1. Consultation on the introduction of a Civil Partnership Registration Scheme in NI closed on 5 March. Responses are being analysed and a draft summary and analysis Report will be submitted as soon as possible. The Minister has received from Ethne Harkness a submission dated 22 March seeking approval

for a media handling strategy, including a Press Release to be issued on 30 March announcing that Ministers here have decided to introduce civil partnership in Northern Ireland.

2. LP Committee is meeting on 23 March at 17.45 to agree the introduction of the Civil Partnership Bill into the Lords 30 March 2004.

THE INCLUSION OF NI CLAUSES IN THE CIVIL PARTNERSHIP BILL

3. Peter Hain wrote to Secretary of State on 2nd March 2004 seeking agreement to include some Northern Ireland clauses in the Civil Partnership Bill for introduction. Ethne Harkness' submission of 4th March invited the Secretary of State to reply to Peter Hain agreeing to the inclusion of a limited number of NI clauses. Secretary of State's Office have advised that this letter to Peter Hain will not now be issued. The Minister is advised to ask LP Committee to note the Secretary of State's consent to the inclusion of NI clauses in the Bill.

LP COMMITTEE MEETING

4. Jacqui Smith has submitted a Memorandum and accompanying documentation to LP Committee seeking agreement to introduce the Civil Partnership Bill in the Lords on 30 March 2004 (LP(04)5). LP Committee meets today to consider the Civil Partnership Bill. Documents accompanying the LP Memorandum are:

- List of Government amendments for Lords' passage
- ECHR Memorandum
- Regulatory Impact Assessment
- Lords' handling strategy (2 docs)
- Civil Partnership Bill
- Explanatory Notes

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5. The Bill, including some 20 clauses and 3 Schedules for Northern Ireland, will be introduced on 30 March and published on 31 March.

NB

6. Jacqui Smith's Memorandum (LP(04)5) explains the purpose of the Bill and notes the inclusion of NI clauses at paragraph 10. That paragraph explains that only a limited number of NI clauses appear in the Bill on introduction in the Lords, with the remainder being added by way of amendment during Lords' passage. That paragraph also notes briefly the response to the public consultation in Northern Ireland.

7. The Minister may be asked at LP to explain how he plans to handle the announcement that the Civil Partnership Bill will establish civil partnership in Northern Ireland. The Minister may also be asked to comment on the readiness of the additional Northern Ireland clauses which are to be added to the Bill. Included as an Annex to Jacqui Smith's Memorandum is a list of those areas of Northern Ireland law which will be added to the Bill during Lords passage. This list comprises both substantial and minor consequential material for Northern Ireland. Legislative Counsel in Northern Ireland intends to have all of this material ready for introduction by way of Government amendments in May 2004.

RECCOMENDATION

8. The Minister is invited to note the briefing material attached at Annex A.

Michael Foster

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Assistant Director Of Law Reform
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cc: PS/Secretary of State (B&L)

Sir Joe Pilling (NIO)

Nigel Hamilton (HOCS)

John Hunter (DFP)

Alan Esdale (OFMDFM)

Andrew McCormick (DFP)

Chris Thompson (DFP)

Rosalie Flanagan (OFMDFM)

David Thompson (DFP)

Adrianne Brown (DFP)

Norman Caven (DFP)

Patricia McAuley (OFMDFM)

John O'Neill (DSD)

Neill Jackson (OFMDFM)

Orla Ward (DFP)

Michael Henderson (DFP)

Stephen Grimason (OFMDFM)

Nick Brown (NIO)

Alan Whysall (NIO)

Neil Lambe (DFP)

David Brooker (NIO)

Adam Higgitt (NIO)

ANNEX A

BRIEFING NOTE FOR LP COMMITTEE MEETING 23 MARCH 2004

Inclusion of Northern Ireland clauses

Peter Hain wrote to Paul Murphy on 2 March 2004 asking for a limited number of NI clauses to be included in the Civil Partnership Bill for introduction in the Lords on 30 March in order to facilitate Parliamentary Counsel's desire to settle the structure of the Bill for introduction.

The Secretary of State's Office has advised that this letter will not now issue. The Minister is advised to inform Peter Hain and LP colleagues that Secretary of State has agreed to the inclusion of the Northern Ireland clauses.

The Northern Ireland clauses

The material for Northern Ireland in the Civil Partnership Bill is found in Part 4 and Schedules 12 and 13 and clause 183 and Schedule 16.

- Part 4 of the Bill sets out a basic system for registering civil partnerships in Northern Ireland using the existing registration service offered by the Registrar General and local authority registration services. Part 4 and Schedule 12 also contain the provisions on eligibility to register civil partnerships in NI and the prohibitions on a civil partnership between two persons related by blood or family relationship. Schedule 13 deals with obtaining parental consent where a person between the age of 16 and 18 wishes to register a civil partnership.
- Part 4 also contains clauses dealing with a courts power to declare on the validity of a civil partnership.
- Part 4 also contains a negative resolution clause enabling further provision to be made for Northern Ireland by way of Order in Council. This provision will be removed from the Bill when the additional NI material is added.
- Clause 183 and Schedule 16 to the Bill are technical in nature and apply 2 new rules of statutory interpretation to references in existing and future legislation to phrases referring to "step-relationships" and "in-law" so that such phrases apply equally to relationships by civil partnership and marriage.

Response to consultation

The Minister is likely to be asked how he intends to handle the numerically negative response to consultation in Northern Ireland and to justify introducing civil partnership in Northern Ireland in the face of public opposition.

The Minister has read and considered over 400 responses to the consultation paper in Northern Ireland. While the majority of the responses from individuals were opposed to the introduction of civil partnership in NI, representative organisations such as the NI Congress of Trade Unions, the Bar Council, Women's Support Network, Democratic Dialogue etc were in favour of the establishment of civil partnership in Northern Ireland.

The Minister is advised to emphasise that the consultation paper published on 19 December 2003 gave a clear direction as to the Government's thinking at that time; that a largely negative response was anticipated and that having considered the responses there is no cogent reason for not taking forward the proposal as a social justice, parity and equality measure.

Ethne Harkness' submission dated 22 March has invited the Minister to endorse a Press Release for issue on 30 March publicising the Government's intentions to introduce civil partnership in Northern Ireland.

Drafting of additional NI material

The Minister may be asked about the progress being made on drafting the additional material for Northern Ireland which is to be included as Government amendments during Lords' passage. Although the list of amendments is long, Legislative Counsel has already completed a first draft of much of the material. He does not anticipate any significant difficulty in being able to meet the Parliamentary timetable for Government amendments beginning w/c 10 May 2004.