

ENVIRONMENT BILL

AMENDMENT TO BE MOVED AT COMMITTEE STAGE

Schedule 1, page 122, line 36

Insert at end –

“() A person shall be considered unable or unfit to carry out the member’s functions under subparagraph (6) if the Secretary of State is satisfied as regards any of the following matters

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- (a) That the member becomes insolvent;
- (b) That the member has been convicted of a criminal offence;
- (c) That the member is otherwise unable or unfit to discharge the functions of a member or is unsuitable to continue as a member.”

Effect

The effect of this amendment is to define the meaning of “unable or unfit” in Schedule 1, subparagraph 5(6).

Reason

Introducing a definition of “unable or unfit” would provide greater legal certainty as to the circumstances in which a person may be removed from office as a non-executive member of the OEP. At present, the Bill does not provide further detail as to the basis for determining a member as unable or unfit to carry out the member’s functions. The amendment specifies that this will be the case where the member becomes insolvent or has been convicted of a criminal offence. This amendment will bring greater specificity to the provisions of the Bill while still providing sufficiently wide scope to take account of other circumstances where the individual is otherwise unable or unfit to discharge the functions of a member or is unsuitable to continue as a member.

There are similar appointee removal processes in relation to other bodies, for example The Scottish Police Services Authority (Police, Public Order and Criminal Justice (Scotland) Act 2006) and the Scottish Legal Complaints Commission (Legal Profession and Legal Aid (Scotland) Act 2007).

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Schedule 1, page 122, line 36

Insert at end –

“() Prior to giving notice under sub-paragraph (6)(c), the Secretary of State must consult with the Chair of the OEP.”

Effect

This amendment would impose a duty on the Secretary of State to consult with the Chair of the OEP prior to giving notice to remove a non-executive member from office.

Reason

Consultation provides for an additional layer of scrutiny. A requirement on the Secretary of State to consult with the Chair of the OEP will help to ensure openness and transparency of the Secretary of State's actions.

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Schedule 1, page 124, line 40

Insert at end –

“(3) The OEP must prepare a budget for the following five financial years.

(4) The OEP must—

(a) arrange for the budget to be laid before Parliament, and

(b) publish it.

(5) The budget must—

(a) include—

(i) an estimate as respects resource requirements;

(ii) the proposed amount of funding required;

(b) be accompanied by information as to the OEP’s projected work plan for the next five financial years.

(6) The OEP may revise the budget at any time (and subparagraph (4) applies to any revised budget).

(7) The OEP must review the budget at least once in every review period.

(8) “Review period” means—

(a) in relation to the first review, the period of 5 years beginning with the day on which the budget was first published, and

(b) in relation to subsequent reviews, the period of 5 years beginning with the day on which the previous review was completed.

(9) Before preparing, revising or reviewing the budget, the OEP must consult with the

Secretary of State and such persons as it considers appropriate.

Effect

This amendment has the effect of introducing a requirement for the OEP to prepare a five-year budget which is subject to consultation and review.

Reason

It is important that the OEP is properly funded to be able to effectively carry out its role. Schedule 1, paragraph 12 provides that: "The Secretary of State must pay to the OEP such sums as the Secretary of State considers are reasonably sufficient to enable to OEP to carry out its functions."

In the circumstances, provisions for the OEP to consult upon and publish a five-year budget, and keep this under review, will help to ensure that its resource requirements and proposed funding required are clearly identified and published. This will help to ensure scrutiny of the both the OEP and the Secretary of State's actions.