

The Queen's Speech 2015--Northern Ireland Bill

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Public Law analysis: How will the proposals unveiled in the Queen's Speech shape the future of devolution in Northern Ireland (NI)? Austen Morgan, barrister at Thomas Bingham Chambers, outlines the salient issues and highlights some of the difficulties that still exist in NI.

Original news

Queen's Speech: Northern Ireland (Stormont House Agreement) Bill, LNB News 28/05/2015 19

A new independent body, the Historical Investigations Unit (HIU), is to be given the responsibility of investigating unsolved Troubles-related deaths, whether related to criminal activity or alleged police misconduct. The Northern Ireland (Stormont House Agreement) Bill, as announced in the Queen's Speech, establishes the HIU and an Oral History Archive (OHA) by which individuals from the UK and Ireland can share experiences related to the Troubles. The Bill would also provide for an additional body, the Independent Commission for Information retrieval (ICIR), to be established by international agreement between the UK and Irish governments.

What are the main proposals and the most noteworthy devolved powers?

The Queen's Speech contains only one reference to NI:

'Legislation will be taken forward giving effect to the Stormont House Agreement (SHA) in Northern Ireland.'

The 103-page lobby pack, however, refers to the Northern Ireland (Stormont House Agreement) Bill. It also provides the thorough details of the Westminster legislation.

The constitutional background is formed by the 1998 Belfast Agreement--to which is added the 2006 St Andrews Agreement. It provided for devolution in NI, at the same time as Scotland and Wales, but the subsequent legislation created an involuntary coalition--the people elect the NI assembly through proportional representation, but the d'Hondt system allocates executive positions to political parties.

Devolution was re-established in 2007, but the two main parties, the Democratic Unionist Party (DUP), led by Peter Robinson, and Sinn Féin (SF), led by Martin McGuinness, agree on little--other than more Treasury funding through the block grant.

The SHA, of 23 December 2014, is the most recent attempt to agree a programme for government. The five NI political parties assented to a 14-page document, which depends upon a separate UK financial package. It is reactive to pressing problems, and is not based on a shared future for NI after violence.

The SHA covers:

- finance and welfare--money issues
- flags, identity, culture and tradition and parades--identity issues
- the past--legacy questions
- institutional reform--opposition issues

The agreement, however, came close to collapse on 26 May 2015, as the Welfare Reform Bill at Stormont, introduced by a DUP minister, failed at its final stage. This occurred because SF, and the smaller nationalist party, used the petition of concern device to veto the legislation.

How does the government envisage the implementation of these powers?

It is implied that the Bill is to be enacted during the first session of the 2015-20 Parliament. It deals only with the legacy questions in the SHA--such as the OHA, but principally the HIU. A third body, the ICIR, is to be created by international agreement between the UK and the Republic of Ireland.

With crisis management as a result of the failed Welfare Reform Bill at Stormont, it is unlikely that the Bill will be introduced in the present session.

Is there anything in the Bill that could result in unintended consequences?

The concept of unintended consequences applies well to NI. Successive UK governments wrestled with Irish terrorism for three decades. Statecraft, however, has been short-sighted. Ministers and officials think an alphabet soup of new bodies costs only money. They little appreciate how minority nationalism pockets them as part of a longer-term strategy.

What are the trends in this area of law?

NI has been staggering from 1998 with a succession of comprehensive agreements, which unravel invariably, leading to yet another cycle in the attempt to have a devolved NI functioning within the UK.

Interviewed by Julian Sayarer.

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