

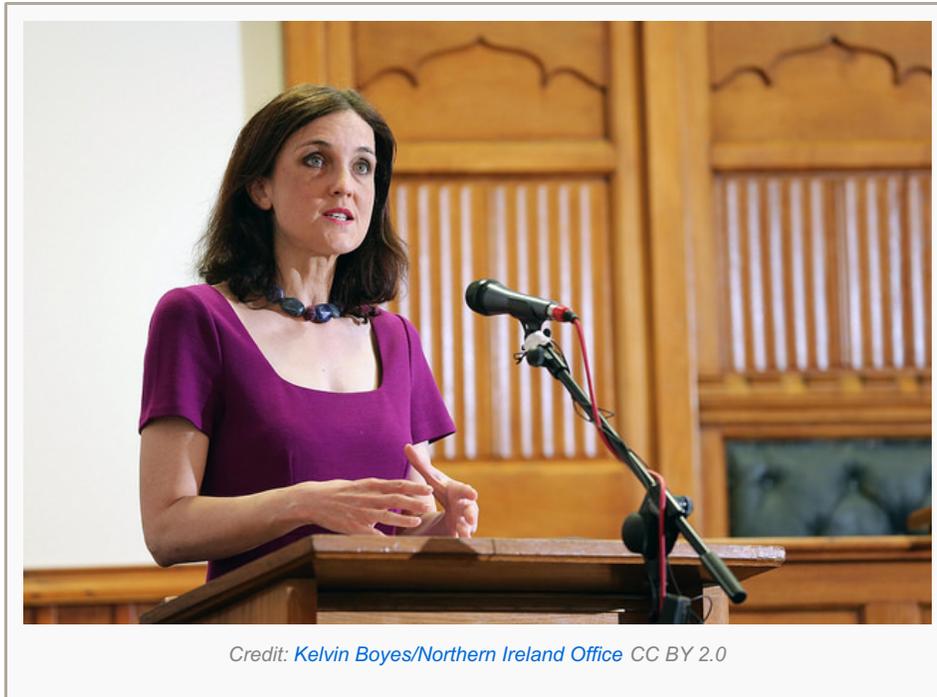
As Scotland and Wales demand greater devolution Northern Ireland is handing power back to Westminster

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By Democratic Audit UK

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*Social security has long occupied an ambiguous place in Northern Ireland's devolution settlement. **Mark Simpson** of Ulster University discusses the implications of last month's decision to temporarily hand legislative competence to Westminster.*



On Wednesday 18 November, members of the Northern Ireland Assembly filed through the division lobbies for the vote that will define the 2011-2016 term of the devolved legislature. In passing a legislative consent motion that will allow the UK Parliament to make social security legislation for Northern Ireland, MLAs in effect handed devolved functions back to Westminster at a time when momentum in both Scotland and Wales is towards *more* devolved power. Admittedly, the [Northern Ireland \(Welfare Reform\) Bill](#) will only have effect until the end of 2016, but these 13 months will suffice for the most fundamental reform of social security in the region since the post-World War II period, and arguably the most retrogressive set of reforms since the 1930s.

Under the terms of the recent [‘Fresh Start’ agreement](#) concluded between the region's leading political parties, the Democratic Unionist Party and Sinn Féin, changes made in Great Britain by the Welfare Reform Act 2012 and the Welfare Reform and Work Bill (as introduced to the House of Commons) may (read ‘will’) be extended to Northern Ireland by Order in Council. Meanwhile, £585 million has been allocated for the disapplication of the housing benefit size criteria for social tenants (‘bedroom tax’) alongside other yet-to-be-agreed mitigation measures over the next four financial years. An independent working group will bring forward proposals for how this money should be spent.

The status of social security in Northern Ireland's devolution settlement has always been complex. Technically a fully devolved matter under the Government of Ireland Act 1920 and Northern Ireland Act 1998, in practice policy has always adhered very closely to that in Great Britain – referred to as the [‘parity convention’](#). The transfer of funds additional to the annual block grant – £3.2 billion in 2012-13 – has facilitated this practice, but policymakers have also argued that maintenance of parity in rates of and conditions for access to benefits is *required* for this support to

continue. This is based on a particular interpretation of the constitutional requirement that the Minister responsible for social security should “consult” his UK counterpart “with a view to securing that, to the extent agreed between them... single systems of social security” operate throughout the UK. The coalition’s social security reforms were controversial across the UK; Northern Ireland was no exception, having been identified as the region likely to experience the [greatest economic loss](#) as a result.

As dissatisfaction with Westminster’s apparent disregard for social justice [helped fuel the ‘yes’ campaign](#) in Scotland’s independence referendum, ultimately resulting in the proposals for social security devolution currently before Parliament, in Northern Ireland the normally straightforward process of replicating Great Britain’s social security legislation became much more fraught following the Welfare Reform Act 2012. Following a [critical committee report](#), a long delay in the legislative process and the adoption of an unusually large number of amendments to the clauses inherited from Westminster, ultimately the Assembly took the unprecedented step of voting down the region’s Welfare Reform Bill in May 2015. With power now in Parliament’s hands, close adherence to parity may be expected to resume.

Allowing Westminster to legislate for Northern Ireland is an obvious blow to Sinn Féin, which (besides opposing British rule) had positioned itself as the leading anti-‘welfare reform’, anti-austerity voice in the Assembly. However, the DUP has also been a consistent advocate of devolution and a Parliamentary critic of both the 2012 Act and the Welfare Reform and Work Bill.

To ask an independent body to recommend mitigating measures seems a sensible step given the Executive’s inability to reach agreement in the last three years. There may even be a case to be made that it is expedient to allow Westminster to rush through the 2012 reform package, although it is difficult to see why the Assembly could not itself legislate quickly if required. Why the regional parties should so readily agree to a further package of reforms that has not even been passed by Parliament is harder to see, especially when Northern Ireland, with its higher levels of [economic inactivity](#) and [larger family sizes](#), is again likely to be disproportionately affected.

An Assembly term that had promised an end to unquestioning acceptance of Westminster prescriptions instead appears to be turning the clock back to the dying days of the old Northern Ireland Parliament, when it passed its own Act allowing social security legislation to be made by Order. This is hardly a comparison Irish republicans will relish, and if Sinn Féin can rightly point out that the current Bill will apply for a short period only, it could be argued with equal justification that there is unlikely to be another major piece of social security legislation (for working age benefits at least) in this Parliament. That the main Northern Irish parties should agree to this arrangement while the Scottish Government argues that the [Scotland Bill does not go far enough](#) in devolving social security competences completes the irony.

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Mark Simpson is a PhD candidate at Ulster University (School of Law). His research on the evolution and devolution of social citizenship under the coalition is supervised by Gráinne McKeever and Ann Marie Gray and supported by an SLSA fieldwork grant. For further discussion of social security parity in Northern Ireland, see *Journal of Social Security Law* vol 22 issue 1 (2015).

