



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

**OFFICIAL REPORT
(Hansard)**

Forestry Bill

1 March 2010

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Ian Paisley Jnr (Chairperson)
Mr Tom Elliott (Deputy Chairperson)
Mr Willie Clarke
Mr Pat Doherty
Mr Jim Shannon

The Chairperson (Mr Paisley Jnr):

Committee members have in front of them a copy of the draft Committee report on the Forestry Bill. As members will know, we have to go through the report line by line, sentence by sentence and comma by comma to ensure that everything is in order.

I propose to start with the table of contents and work through the draft report's 34 pages.

Are members content with the table of contents and with what has been written about the Committee's powers and membership?

Members indicated assent.

The Chairperson:

We now move on to the executive summary, which I will go through paragraph by paragraph.

Paragraph 1 deals with the purpose of the Bill. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 2 and 3 deal with the principles of the Bill.

Paragraph 2. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 3 is really a factual paragraph. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 4 and 5 deal with the key issues.

Paragraph 4. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 5. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 6, 7 and 8 deal with the recreational, social, economic and environmental aspects of forests.

Paragraph 6. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 7. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 8 concerns the delivery plan. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 9, 10, 11 and 12 deal with compulsory acquisition

Mr Shannon:

I am sorry, but I have not had the chance to go through the draft report yet.

The Chairperson:

No one has. That is why we are going through it line by line now.

Mr Shannon:

I have been asked to mention clause 9. Have we come to that dormant clause yet?

The Chairperson:

We will come to that in a moment. We are on compulsory acquisition, which is clause 5.

Paragraph 9. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 10. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 11. Are members content?

Mr Elliott:

Paragraph 11 states:

“The Committee accepted that such powers were necessary”.

I am not sure that we accepted that principle. I think that the Department told us that such powers were necessary, but I am not sure that we agreed.

The Chairperson:

Do you have a suggestion?

Mr W Clarke:

We agreed in principle that, in certain circumstances and as a final option, such a power was necessary.

The Chairperson:

Perhaps it should read, “The Committee heard arguments as to why the powers were necessary from the Department’s perspective.”

Mr W Clarke:

Yes.

Mr Elliott:

That would be fine.

The Chairperson:

It puts the weight of the argument on the Department. We will return to that paragraph when we consider the final draft.

Are members content with paragraph 11, subject to a change to the wording?

Members indicated assent.

The Chairperson:

Paragraph 12. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 13 and 14 deal with the woodland inventory.

Paragraph 13. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 14. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 15 to 22 deal with powers to enter private land to control animals or vegetation. Clause 9 deals with control of animals on land adjacent to forest. Mr Shannon expressed an interest in those issues.

Mr Shannon:

I have been asked to ask a question. I just want to put this on record, if nothing else. I know that you and other members have been asked about it, too, Chairperson. Are we convinced, in the light of our concerns, that any activation of the dormant clause will not become an issue? That has been brought to my attention because some Members of the House of Lords have indicated that, sometimes, civil servants do not always replicate what the Committee says. I appreciate that officials are not present to respond to what I have said.

The Chairperson:

We are dealing with our report, so let us agree paragraph 15, after which we should read paragraph 16 closely.

Paragraph 15. Are members content?

Members indicated assent.

The Chairperson:

Let us read paragraph 16 carefully, because it explains our position clearly.

Mr Elliott:

Remind me, Chairperson, whether “empowered only by affirmative resolution” means that the dormant clause must be activated in the Assembly.

The Chairperson:

It must be discussed in Committee as well.

The Committee Clerk:

It would do at policy stage. The second last sentence of paragraph 16 states:

“The Committee requested that the Department take powers to introduce this power by subordinate resolution”.

That should read “affirmative resolution”, not “subordinate resolution”. We will amend that sentence. That was my mistake; we could either have used “subordinate legislation” or “affirmative resolution”. I went for a combination of the two.

The Chairperson:

We will change “subordinate” to “affirmative”. That paragraph makes our position clear, Jim.

Mr Shannon:

I believe that it does. I have tried to convey that, but I was asked about it over the weekend and I just wanted to see it in black and white.

The Chairperson:

Representations were made to me on similar lines. People asked why the dormant clause was still in the Bill. It is there, but it is dormant.

Mr Shannon:

One of the key factors that helps me to explain it better is that any new power will be used only:

“when the evidence base was available to indicate that there was a problem.”

Any such power cannot be used willy-nilly but must be invoked by the Committee and the Assembly. Would the regulations be discussed in Committee before being debated in the Assembly?

The Committee Clerk:

The process should be that it would come to us at subordinate legislation stage 1. The policy of the new subordinate legislation would come to us first. It would then be laid in the Business Office.

The Minister must move that piece of legislation, at which stage it can be debated. A decision is then up to the House.

The Chairperson:

The Committee deals with pieces of subordinate legislation (SL) every week, and we usually go through them quite quickly. If this were to come up as an SL1 years from now, it may provoke a debate. I saw a similar situation arise in the Assembly’s first mandate when SLs on seed potato prices and fees regularly provoked debate.

The Committee Clerk:

As the Chairperson says, there are SL1s on which Committee staff will automatically make presentations. Having learnt from experience, they would particularly include SL1s that invoke new fees or that the Committee has debated, such as the issue of landing oysters. This is a subject that Committee staff will flag so that if regulations come before the Committee, a presentation will be delivered.

Mr Shannon:

I am happy with that. The interest in the issue is such that it should be flagged in advance of a Committee meeting so that we are all made aware of it. The evidence base also keeps us right.

The Chairperson:

It is significant that the Committee argued for, and achieved, the requirement of affirmative resolution. Many issues and interests must be balanced, and it is a sensible way forward.

Are members content with paragraph 16, subject to a change to the wording?

Members indicated assent.

The Chairperson:

Paragraph 17. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 18. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 19. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 20. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 21. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 22. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 23 and 24 deal with fees for felling licences.

Paragraph 23. Are members content?

Members indicated assent.

The Chairperson:

The power to introduce fees will also require affirmative resolution. There will be that option. Are members content with paragraph 24?

Members indicated assent.

The Chairperson:

We now move on to the draft report's recommendations. We will deal with paragraph 25 and the first bullet point. Are members content?

Members indicated assent.

The Chairperson:

The second bullet point. Are members content?

Members indicated assent.

The Chairperson:

I see, Mr Shannon, that the third bullet point contains another reference to working with

stakeholders. The Committee argued strongly for that when it met at Castlewellan Forest Park.

Are members content?

Mr Shannon:

May I ask a wee question on that?

The Chairperson:

As long as it is wee.

Mr Shannon:

The creation of a post of independent regulator has been suggested throughout the process. That debate is not part of today's business. At what stage does the Committee feel that it has dealt with all the issues and concerns that were raised?

Many people felt that having an independent regulator would be a way in which to administer those issues to the satisfaction of those who had concerns. Some people are worried about the Forest Service's having powers above and beyond what it should have — not today, but in future. Some members of the Committee would be of that opinion.

The Chairperson:

The Department is the regulating authority. If that is to change, it is unlikely that the Department will propose that change. The Bill will control and set the parameters of where that power rests. The Bill has been extremely helpful on some of those points, especially on our insistence that Forest Service talk to stakeholders. The question is whether there should be a requirement to restrict the powers. That could come by way of a private Member's Bill.

Mr Elliott:

One point on the Forest Service's powers is that we allowed the provision on the body corporate, but we curtailed other areas of the Bill, particularly over land use and acquisition. We have tried to strike a balance.

The Committee Clerk:

To pick up on the Deputy Chairperson's point, the body corporate is to facilitate the establishing

of relationships with community groups, and so on. There was some discussion about establishing an advisory panel comprising stakeholders. However, the Department argued against that, and members agreed that the body corporate was sufficient, and that there should be regular meetings with stakeholders. The Department has given a commitment to do that in respect of those sectoral interests such as recreation and biodiversity.

The Chairperson:

The third bullet point. Are members content?

Members indicated assent.

The Chairperson:

The fourth bullet point. Are members content?

Members indicated assent.

The Chairperson:

The fifth bullet point and its four associated bullet points. Are members content?

Members indicated assent.

The Chairperson:

The sixth bullet point. Are members content?

Members indicated assent.

The Chairperson:

We will take our time to read the seventh, eighth and ninth bullet points. Are members content?

Members indicated assent.

The Chairperson:

We now move on to the introduction. This is all factual stuff. Are members content with paragraph 26?

Members indicated assent.

The Chairperson:

Paragraph 27. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 28. Are members content? At least pretend that you are reading it, Willie.

Mr W Clarke:

I am reading it. *[Laughter.]*

Mr Shannon:

You must be a quick reader.

Mr Doherty:

He is a speed-reader.

The Chairperson:

Again, are members content?

Members indicated assent.

The Chairperson:

Paragraph 29. Are members content?

Members indicated assent.

The Chairperson:

We now move on to the summary of the Forestry Bill.

These points were presented by the Department in a submission to the Committee, which we

regurgitated and put back into the draft report. It is a factual memorandum, much like the explanatory and financial memorandum that accompanies the Bill. This will take us from paragraph 30 to paragraph 70 inclusive. It is a memorandum of understanding.

Mr Shannon:

I suppose that you have read all those paragraphs, Willie?

Mr W Clarke:

Aye, I have.

The Chairperson:

We have read the paragraphs at length over the past weeks. Are members content?

Mr Elliott:

Will it be presented as a memorandum of understanding, not as the work of the Committee?

The Chairperson:

It states that it is a:

“Summary of the draft Forestry Bill as presented to the Committee for Agriculture and Rural Development in the Committee Stage.”

Mr W Clarke:

Must the Committee agree that?

The Chairperson:

The Committee must agree that that be included in its report. Are members content with paragraphs 30 to 70?

Members indicated assent.

The Chairperson:

The Committee will now consider the section of the report that deals with the summary of consideration and agreed amendments. We will first consider clause 1, “General duty of the Department”.

Paragraph 71. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 72. Are members content? I need to hear it.

Members indicated assent.

The Chairperson:

Paragraph 73. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 74.

Mr Shannon:

You are usually telling me to keep quiet, Chairman, but now you are encouraging me to say more.

The Chairperson:

Paragraph 74, Jim. Are members content?

Members indicated assent.

The Chairperson:

We now move on to clause 5, "Compulsory acquisition of land".

Paragraph 75. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 76. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 77. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 78. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 79. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 80. Are members content?

Members indicated assent.

The Chairperson:

We now move on to clause 6, "Inquiries, information, etc."

Paragraph 81. Are members content?

Members indicated assent

The Chairperson:

Paragraph 82. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 83. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 84. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 85 deals with consideration and agreed amendments for clause 8, “Control of animals in forests”. It contains a request from the Committee for the Department to exempt the Irish hare from the list of wild animals.

Paragraph 85. Are members content?

Members indicated assent.

The Chairperson:

We now move on to clause 9, “Control of animals on land adjacent to forest”.

Paragraph 86. Are members content?

Members indicated assent.

The Chairperson:

In paragraph 87, the Committee will again need to change “subordinate resolution” to “affirmative resolution”.

Paragraph 87. Are members content, subject to a change to the wording?

Members indicated assent.

The Chairperson:

Paragraph 88. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 89 and 90 deal with the Committee's request to insert a new clause to deal with the control, with the permission of the occupier, of animals on land adjacent to forest.

Paragraph 89. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 90. Are members content?

Members indicated assent.

The Chairperson:

We now move on to clause 10, "Removal or destruction of vegetation on adjoining land".

Paragraph 91. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 92. Are members content?

Members indicated assent.

The Chairperson:

We now move on to clause 15, "Application for felling licence".

Paragraph 93. Are members content?

Members indicated assent.

The Chairperson:

We now move on to clause 17, "Operation and conditions of felling licence".

Paragraph 94. Are members content?

Mr Elliott:

I notice that the paragraph mentions felling management plans.

The Chairperson:

Yes. It mentions felling management plans for ancient woodland.

Mr Elliott:

Is it reasonable for us to insert an extra sentence that says that we have seen the draft management plan?

The Chairperson:

I do not see why not.

The Committee Clerk:

That may be included. The draft management is actually included in the appendices.

Mr Elliott:

Is it?

The Committee Clerk:

Yes.

The Chairperson:

Perhaps we should we insert a sentence that draws attention to that fact.

Mr Elliott:

That might be useful, because that was an important part of our decision-making.

The Chairperson:

It was indeed.

The Committee Clerk:

We will insert a sentence that says that the draft management plan is contained in the relevant appendix.

The Chairperson:

Are members content with paragraph 94, subject to the extra wording?

Members indicated assent.

The Chairperson:

Paragraph 95. Are members content?

Members indicated assent.

The Chairperson:

We now move on to clause 20, "Felling in connection with felling licences".

Paragraph 96 is a factual statement. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 97 deals with our success. Did anyone ever doubt that the Department was going to waive the proposal to introduce felling licences? I did not.

Are members content with paragraph 97?

Members indicated assent.

The Chairperson:

We now move on to clause 30, “Public right of access to, and byelaws for, forestry land”.

Paragraph 98. That is for all your rural riders, Jim. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 99. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 100. Why is there a pound sign before the word “recreational” in paragraph 100? Was artistic licence being used?

Mr Shannon:

It means that if an individual has money, he can become involved in recreational use, and if he does not have any money, he cannot become involved.

The Committee Clerk:

That is a typo. I will amend it.

The Chairperson:

Paragraph 100. Are members content?

Members indicated assent.

The Chairperson:

Paragraphs 101 to 122 relate to the clause-by-clause scrutiny of the Bill. The paragraphs are

lifted from the minutes of last week's meeting, which we actually agreed earlier today, but we will go through them anyway.

The Chairperson:

Paragraph 101. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 102. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 103. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 104. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 105. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 106. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 107. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 108. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 109. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 110. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 111. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 112. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 113. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 114. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 115. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 116. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 117. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 118. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 119. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 120.

Mr Shannon:

That is the easiest paragraph to agree.

The Chairperson:

Are members content with paragraph 120?

Members indicated assent.

The Chairperson:

Paragraph 121. Are members content?

Members indicated assent.

The Chairperson:

Paragraph 122. Are members content?

Members indicated assent.

The Chairperson:

We will lay the draft report in the Business Office and present any amended clauses at tomorrow's meeting for members' information. In addition, the minutes of any outstanding Hansard reports will be circulated for approval.

We then have various appendices to the draft report. The minutes of proceedings are at appendix 1. The minutes of evidence are at appendix 2. Written submissions are at appendix 3, followed by memoranda and papers from the Department at appendix 4. Other memoranda and papers are at appendix 5. The list of witnesses is at appendix 6.

That completes the reading of the draft Committee report.

Mr Shannon:

When will it be possible to get a copy of today's Hansard report?

The Chairperson:

It will probably be e-mailed to you later tonight.

The Committee Clerk:

It will not be e-mailed later tonight. We will receive two or three copies of the Hansard report. When we get them, we have to get members' approval. We will circulate them for approval by e-mail. We will get a copy to you as soon as is possible.

Mr W Clarke:

Are you making a press statement, Jim?

Mr Shannon:

No. I want it so that I can tell people what I have done.

The Committee Clerk:

It will be available in a few days.

Mr Shannon:

There is no rush. I just wanted to make it clear that I would like a copy of the report.

The Committee Clerk:

It is usually returned by Hansard in three days.

Mr Shannon:

That is perfect. Thanks very much.

The Chairperson:

That completes today's business and the Committee Stage of the Forestry Bill. It is a good piece of work. Our next meeting is in this room at 1.30 pm tomorrow.