



Northern Ireland  
Assembly

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**COMMITTEE FOR THE  
ENVIRONMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Wildlife and Natural Environment Bill**

7 January 2010

**NORTHERN IRELAND ASSEMBLY**

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ENVIRONMENT**

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**Members present for all or part of the proceedings:**

Mrs Dolores Kelly (Chairperson)

Mr Roy Beggs

Mr John Dallat

Mr David Ford

Mr Danny Kinahan

Mr Ian McCrea

Mr Daithí McKay

Mr Alastair Ross

Mr Peter Weir

**Witnesses:**

Mr Ken Bradley            )       Department of the Environment

Mr Chris Savage         )

Mr Mike Meharg         )

**The Chairperson (Mrs D Kelly):**

We now move to today's evidence session. The Second Stage of the Wildlife and Natural

Environment Bill was due to be moved on 8 December 2009. It is the Minister's intention to move it on Tuesday 12 January 2010.

The Committee has been provided with a departmental briefing paper for today's meeting. I invite the departmental officials to join us. They are Ken Bradley, who is a grade 7 civil servant in the Department of the Environment's planning and environmental policy division; Chris Savage, who is deputy principal in that division; and Mike Meharg, who is head of the biodiversity unit in the Northern Ireland Environment Agency (NIEA). You are very welcome. Five to 10 minutes have been set aside to allow you to brief the Committee. Hopefully, afterwards, you will have time to respond to members' questions and comments.

**Mr Chris Savage (Department of the Environment):**

We will quickly run through an overview of the Wildlife and Natural Environment Bill's main provisions. The Committee will be aware that it was introduced in the Assembly on 30 November 2009. Its Second Stage has been scheduled provisionally for Tuesday 12 January 2010.

The Bill's main aims are to amend and update the Wildlife (Northern Ireland) Order 1985; to introduce a new biodiversity duty upon public authorities in Northern Ireland; to reform elements of existing game laws; and to amend Part IV of the Environment (Northern Ireland) Order 2002, which relates to areas of special scientific interest (ASSIs).

The Department undertook a policy consultation on those proposals in 2008, after which the Committee was provided with a synopsis of responses to that consultation. On 19 March 2009, the Committee accepted the main recommendations for moving forward.

In general, the Department believes that the Bill will have a positive and practical impact on conservation of biodiversity and protection of valuable wildlife. It will give important focus to the role that Government can play to advance the conservation of biodiversity. It will also provide the authorities that have responsibility for enforcing the provisions of the Wildlife Order with suitable powers to do so, and it will offer an effective and appropriate level of deterrent against wildlife crime.

The Wildlife Order is 25 years old and needed to be reviewed and updated. The Bill will make a number of amendments to the Order, including bringing the schedules to the Order up to date and providing protection for a larger range of birds, animals and plants. It will also place a new duty on the Department to review the schedules every five years; that is something that has not been in place before.

The Bill will also provide stronger enforcement powers for the police and the Department's wildlife inspectors to enforce the legislation. Those powers will include stronger stop-and-search powers, stronger powers of entry and seizure, and powers to take samples for DNA and other evidential purposes. The Bill will also increase the level of penalties for wildlife crime generally, including, for the first time in Northern Ireland, giving the courts powers to impose custodial sentences for wildlife-related offences.

The Bill will also provide better enforcement by amending some of the existing offences in the Order. For example, reckless action that harms wildlife will be made an offence in the same way that intentional action is presently treated under the Order. The Bill will give the Department

additional powers for the purpose of managing the wild deer population in Northern Ireland, which has been steadily increasing in recent years. It will also provide stronger controls in relation to the use of snares. The Bill will also make some amendments to the provisions relating to the regulation of invasive non-native species, which can have quite a detrimental effect on biodiversity as well as economic interests.

A new biodiversity duty will be placed on all Departments, district councils and public bodies to further the conservation of biodiversity consistent with the exercise of their functions. The broad aim of the duty is to raise the profile of biodiversity and promote biodiversity issues as a natural part of policymaking throughout the public sector. It will also help to ensure that Northern Ireland meets its commitments at a European and international level to work towards halting the loss of biodiversity. It will further complement the commitments in Northern Ireland's sustainable development strategy, which highlights biodiversity as one of the key themes. We know that the Departments are already doing a lot of good work in that area; for example, they have been producing biodiversity implementation plans that list various actions that they will take. That will be an important element in meeting the new duty.

The Bill will also contain provisions that will abolish the existing systems in Northern Ireland that require anybody that hunts or trades in game species to have a licence. Although the Department of the Environment (DOE) is responsible for legislation in relation to hunting and conservation of game species, the Department for Social Development (DSD) has a legal duty to manage the game licensing system under an old piece of legislation called the Miscellaneous Transferred Excise Duties Act (Northern Ireland) 1972.

The present licensing systems have been in place since the 1800s and have remained fundamentally unchanged since then. We are following some changes adopted in England and Wales in 2007, when the systems there were abolished following recommendations from Lord Haskins's Better Regulation Task Force, which considered the systems to be archaic and of very little value. DSD fully supports those proposals.

Finally, we are taking the legislative opportunity to make some amendments to the Environment (Northern Ireland) Order 2002, mainly to enhance the protection and management of ASSIs. The Environment Order was made only in 2002, and although it has significantly

improved the means by which we can manage and protect those areas, recent experience has indicated a need for some further changes. The main changes are the introduction of two new offences. A new third-party offence will apply to anyone who damages an ASSI, and it will be an offence for public authorities not to inform the Department when they have given consent to undertake an activity that could damage an ASSI. That is a quick overview of the Bill's provisions.

**The Chairperson:**

Thank you very much.

**Mr Weir:**

I will try to be brief. Once the Bill passes its Second Stage, we will get into the meat of it at Committee Stage. I suspect that the vast majority of people, including me, will welcome the broad thrust of the Bill. It is a no-brainer to say that we will all be happy to unite behind measures that will help to protect our wildlife and that will place greater penalties on those who are involved in criminal acts. I do not think that there will be any issue with the broad thrust of



the Bill.

I want to tease out the Department's position on one issue. The Second Stage was originally planned to take place just before Christmas, and at that time, I, and I assume other members, received a detailed briefing paper from the Royal Society for the Protection of Birds (RSPB), which was very useful. I think that the RSPB would give a broad welcome to the proposals. The briefing paper detailed which species of birds should be included in the Bill, and those details will have to be scrutinised. Is the Department prepared to take a flexible approach on those issues? Although a good case has been argued for making such changes, is the Department looking at the matter with an open mind?

**Mr C Savage:**

The Department will be flexible. If there are views that certain species should be protected, the Department will look at the scientific case for protecting them. If it feels that the evidence is compelling, those matters will be considered. We must bear in mind that there will be competing views, particularly on so-called quarry species. We must also bear in mind that the conservation

groups and sporting groups can, quite often, be far apart. A judgement call will sometimes be involved.

**Mr Weir:**

Will you be in a position to get back to the Committee quickly with the relevant information, bearing in mind that the Committee will have to be guided on amendments to the Bill? Certain species may be mentioned and the Department may have to investigate whether they need greater protection or whether there is a good reason why they should not receive protection. There is no point in the Department saying that it will have to carry out a survey and look at the matter again in six months' time.

**Mr K Bradley (Department of the Environment):**

It would depend on the species involved and on the information. However, we would try to incorporate all the information into the review. A five-year review is built into the schedules to the Bill. Therefore, if a species is missed this time around, there will be another opportunity to have it included. The schedules can also be amended by subordinate legislation. If additional

accounts or surveys need to be carried out on a particular species in six months' time, that could be revisited following the survey. If the Wildlife and National Environment Bill were passed, the Department could consider amending it through subordinate legislation. The door is always open in that respect.

**Mr Meharg (Department of the Environment):**

The RSPB, which has a UK or Britain and Ireland overview, might see particular trends in that geographical area. However, there are different population trends in Northern Ireland, and we have to bear in mind that we are looking at the population in Northern Ireland. The populations of some species are decreasing elsewhere but increasing here.

**Mr Weir:**

The flip side of the coin is that a national organisation might be in a position to provide information on surveys carried out elsewhere that may be of interest to Northern Ireland. I appreciate that you co-ordinate with colleagues.

**Mr Meharg:**

Yes. To go back to your first point, we have data available on most species that those larger organisations would be interested in. If they suggest species that may be slightly different to the ones that have been referred to in the public consultation, we will be able to provide that information to the Committee and reconsider it.

**Mr Dallat:**

The Bill seems to be more about the stick than the carrot. Legislation can stop people doing something or can enforce rules, and this Bill seems to have a right dose of that. Is there any obligation to ensure that the education system, for example, understands what wildlife is about? There is a crazy situation now wherein many children do not know what domestic animals are, never mind wildlife.

Many areas that are home to a lot of wildlife are not designated as ASSIs, largely because of the pressures of agriculture and so on. There does not seem to be any protection for wildlife there. Sticking super-dumps in the middle of ASSIs is not a very good way to protect wildlife.

There is no reference to any kind of liaison with the Republic. We all know that cockfights and pit bull fights are strategically organised there to escape the legislation of both parts of the island.

What is the role of the Ulster Society for the Prevention of Cruelty to Animals (USPCA) and the RSPB, which go to enormous lengths to try to educate the public but do not seem to have any statutory recognition?

I speak as someone who lives in the countryside. I do not see enforcement doing anything for the wildlife around me; the badgers and the foxes. I was intrigued by the sentence in your briefing that states the intention of:

“Providing stronger controls in relation to the use of snares.”

As I understand it, you can no longer use glue traps to catch a mouse, but snares are still legal.

Nothing has changed since the 1800s, and, to be honest, this measure is rather late in coming.

Where is the carrot to encourage the protection of wildlife, and what about the other issues?

**Mr C Savage:**

You asked about educating the public. There is guidance on the Wildlife Order as it stands, although it is now quite old. One of the intentions is to produce new guidance as soon as the Bill is passed. The Northern Ireland Environment Agency also does a lot of good work in educating the public, outside of the legislation.

**Mr Dallat:**

What about the Department of Education?

**Mr C Savage:**

I am not sure if there are close links between the Northern Ireland Environment Agency and the Department of Education. I am not sure if there is a possibility of getting the matter onto the curriculum, but there is a lot of work going on in the background to promote educational awareness of wildlife. We can continue to do that. I do not think that there needs to be anything

specific in the Bill about that, unless there was a strong feeling that a specific duty had to be placed on a Department to educate people and children. I know that the RSPB has raised that issue before.

As regards your point about the protection of ASSIs and other sites, there is a range of site designations that district councils are involved in, such as local nature reserves. It is perhaps not possible to use the full range of powers for ASSIs on other lesser sites, but it is still important to protect wildlife on them.

You asked about liaising with the Republic of Ireland. The Department is involved in an organisation called the Partnership for Action Against Wildlife Crime. That brings together all the various Departments and non-governmental organisations (NGOs) that have an interest in fighting wildlife crime, and representatives from the Republic of Ireland regularly attend those meetings.

The Police Service has the main responsibility for enforcing the wildlife legislation. It

recently appointed a wildlife liaison officer, and that officer is actively involved in visiting the various divisions to try to increase awareness within the PSNI of the requirements of the Wildlife Order and the various issues involved.

At the moment, there is a campaign to ban the sale and use of snares in Northern Ireland, and our Department and the Department of Agriculture and Rural Development have been lobbied on the issue. At the moment, our Department takes the view that snares remain an important tool in controlling pest species. However, if we are allowing them to be used, we want them to be used in the proper manner so that any threat to animal welfare is minimised.

**Mr Meharg:**

I will add a little bit about education and awareness. Although the Department, through the Northern Ireland Environment Agency, has a biodiversity outreach programme that provides information on our wild species and wild habitats, grant aid for funding for wildlife awareness campaigns is also made available annually to various non-governmental organisations such as the RSPB, the Ulster Wildlife Trust and many local nature conservation charities.



**Mr K Bradley:**

I will follow up on the issue of snares. The Minister of the Environment was lobbied by the League Against Cruel Sports, which is campaigning for a total ban on the use of snares. The Minister asked us to check how widely they are used throughout Northern Ireland. The Ulster Farmers' Union in particular responded strongly and said that snares are widely used in the west and south of Northern Ireland during the lambing season to combat foxes, for example. From that point of view, it was decided that the present regime would stay in place.

**The Chairperson:**

We have no idea about the extent of that regime.

**Mr Dallat:**

I do not belong to any organisation that wants to ban the worm or anything like that, but I am aware that snares are still used, and not always by farmers. I know of a recent case in which a fox ate its leg off to get out of a snare. We live in a modern, civilised society: I will have to reflect on the matter, because I do not understand the justification for snares. They are barbaric.

**Mr K Bradley:**

We are looking for a balance. There is a need for predator control on one side of the coin and a need to promote animal welfare on the other. If snares were to be banned outright, we would have to consider what to put in their place.

**The Chairperson:**

We have had time since the 1800s to reflect on that question, so I hope that you can come up with a better answer than a balance, Mr Kinahan.

**Mr Kinahan:**

I have not been alive for that long.

I agree with what was said earlier, and I welcome most of what is contained in the Bill. My concern is about the mechanisms that are involved. The RSPB gave a very good briefing on which birds should be included in the various schedules to the Bill. To take that a step further and consider plants and species, I know of one case on the border in which a large estate has been

completely overrun by a plant, but its owners have been told that they cannot cut that plant back.

There must be a mechanism through which plants and species can be moved on and off lists quickly, without having to come back to legislation. I have not picked up how flexible the system will be. Does it include a committee or a liaison group that understands flora, fauna and birds and that would work alongside the Department to allow that flexibility to happen?

**Mr C Savage:**

There is no existing provision that is as flexible as Mr Kinahan is suggesting, nor is there any provision in the Bill that would allow that to happen. Any changes to the schedules of the Bill must be made by subordinate legislation. That can happen reasonably quickly if a compelling case is made. There would normally be consultation with the various interests anyway; if there was broad agreement, any such amendment could be made quickly. I am not sure whether it is feasible to have something even more flexible than that, which would allow all the relevant stakeholders to express their views about proposed changes to the schedules.

**Mr Kinahan:**

We need to examine that.

**The Chairperson:**

When will the biodiversity outreach programme give guidance to local authorities about sustainable development? Will that be comprehensive, and how will it be enforced? I do not think that many people, particularly members of the public, have much confidence in the NIEA, its current enforcement powers and how it will enforce the new legislation.

**Mr K Bradley:**

The idea is to divide the biodiversity guidance into two tranches. The first tranche of guidance will be issued to public bodies, Departments and non-departmental public bodies so that the legislation can be in place around summertime. It is felt that guidance for local authorities should be issued during the second stage. In deciding on the timing, we have to consider the review of public administration (RPA). Obviously, now is not the best time to issue guidance because councils are rather focused on the outcome of the RPA. The guidance for local authorities will be

rolled out to biodiversity officers in local authorities. The NIEA is working proactively to ensure that there is a biodiversity officer in each of the new council areas.

Local authorities and/or public bodies will have to report annually to the Department on what they have done to promote biodiversity during that year. There is no formal stick; the DOE cannot bring the Department of Agriculture or whoever else to book over something that has not been done. From Minister to Minister and through the Executive, reports will be made on an annual basis.

**The Chairperson:**

Your thought processes on the guidance must be some way along. The Committee would welcome an early opportunity to see the proposed guidance.

**Mr K Bradley:**

We intend to let the Committee see the guidance in draft form before it is put out for formal consultation in March or April.

**The Chairperson:**

Your briefing paper states there is:

“a lot of good work already being undertaken in the public sector in this area. For example, departments have developed Biodiversity Implementation Plans to record practical actions which they are undertaking to promote biodiversity.”

That is very aspirational. Is it left to Departments to decide to do that, or is it a duty on them?

**Mr K Bradley:**

That brings us back to the carrot and the stick. The biodiversity strategy is out there, and it has been for a number of years. The last report that we got from the biodiversity group showed that although the DOE and the Department of Agriculture and Rural Development have done a lot of work, other Departments with large landholdings still have a responsibility. Therefore, we temporarily employed a person to ask Departments to take on board practical actions to promote biodiversity, and that has been fairly successful.

Aside from Northern Ireland Departments, the NIO, for example, opened Magilligan prison. Practical and policy actions have been recorded in implementation plans. For example, a new

library that is opening shortly in Antrim has bat boxes incorporated onto the building. Such actions are positive. We hope to get a report from each Department by December 2010 on how well they are doing with their plans.

**The Chairperson:**

It will be good to share best practice.

**Mr K Bradley:**

I agree.

**Mr McKay:**

Thank you for your presentation, I apologise for being late. John referred to the issue of snares, and the Ulster Farmers' Union (UFU) has said that snares are widely used in the mid-Ulster region. Has the Department quantified how widely used snares are? How will it enforce what is being proposed, and how much will that cost?

**Mr K Bradley:**

The Minister was of a mind to ban snaring, so we contacted UFU officials and other land users to find out how widespread the use of snares is. The information from the UFU indicated that snares are widely used during lambing season to catch foxes. The legislation requires people to check snares once every 24 hours.

**Mr McKay:**

Do you have any figures?

**Mr K Bradley:**

No; it was just a matter of talking to those fellows. No numbers were given regarding how many snares are used or how many foxes are caught. The UFU and the Northern Ireland Agricultural Producers Association would probably criticise the Department heavily if we opted for a full ban on snaring. It is not that those organisations are pro-snaring; snaring is merely a means of controlling predators. What alternative is there to snares? That is where they are coming from. It is not that they have a love of snares, it is for the sake of what snares do.



**Mr McKay:**

What penalties will be faced by a farmer, or someone else in the country, who is found guilty of breaking the proposed law about snaring and the types of snares that are allowed?

**Mr C Savage:**

The penalties outlined in the Wildlife (Northern Ireland) Order 1985 apply to snares. The penalties that we are talking about are a maximum fine of £5,000 and a possible custodial sentence of up to six months. The police are the main enforcement authority, but we work very closely with the main NGOs. The Partnership for Action Against Wildlife Crime is useful in trying to encourage everyone with an interest in wildlife to report to the police any activity that they believe to be unlawful. The Partnership for Action Against Wildlife Crime has devised a standard form that can be completed by people who believe that they have information about unlawful activity. That information is gathered and sent off to the UK's National Wildlife Crime Unit, where all such information and intelligence is collated.

**Mr McKay:**

How do the penalties compare with those in other jurisdictions?

**Mr C Savage:**

They are the same.

**Mr Ford:**

Mention has just been made of the RSPB's concern about the schedules of the Wildlife (Northern Ireland) Order 1985 and the inclusion of particular species in that. In drawing up the proposed amendments, what procedures were followed as regards consultation with NGOs?

**Mr C Savage:**

We consulted fully with NGOs, including the RSPB, both formally, through the public consultation process, and informally, prior to the consultation process. We have had a number of meetings with the RSPB and bodies that represent other sporting and conservation interests. It has taken quite a while to get to this point, and it has been a while since the original list was

drawn up. We understand that some NGOs may be looking at more recent data. As we go through the process, we will consider any compelling cases for the addition of other species to the list.

**Mr Ford:**

That concerns me. It is a necessity for the Committee, for example, to carry out appropriate consultation. The matter seems to have been dragging on forever, and it would be remiss if I did not mention the word “hare”.

The Bill would amend the Environment (Northern Ireland) Order 2002 with regard to ASSIs.

Is that the only aspect of that Order with which the Department is unhappy?

**Mr C Savage:**

The Northern Ireland Environment Agency, which is responsible for the administration and protection of ASSIs, may have identified other aspects of that Order relating to ASSIs that could be changed. It was a case of the Department trying to draw a line and identifying the aspects that

we felt were most important to take forward at this point.

**Mr Ford:**

That concerns me slightly. As the sole survivor from the Environment Committee of the first mandate of the Assembly, I know that the 2002 Order was an amalgamation of three Bills that were before the Committee at the time of suspension. In a number of cases, the Committee suggested that the final Act might have been a bit more robust than what was proposed by the Department originally. I am thinking particularly of tree preservation orders (TPOs), a topic on which Ian McCrea's father and I had many a happy session with your departmental colleagues. I am slightly perturbed that ASSIs is the only aspect that is seen as worthy of bringing forward in legislation at this stage, given your admission that there are other aspects that need to be addressed and given the Department's legislative programme, from which we can assume that nothing else to deal with wildlife or the natural environment is likely to come forward for around three years.

**Mr C Savage:**

Nothing else is planned. I know that the Environment (Northern Ireland) Order 2002 also dealt

with issues such as air quality and other matters that the Bill, which deals with conservation, will not consider.

**Mr Ford:**

I appreciate that, but some other issues might have been addressed in the Bill. For example, the inadequacies of TPOs could well have been addressed in a Bill such as this one, but the Department has not proposed that.

**Mr C Savage:**

As far as I am aware, that issue was never raised, even in the early stages of the process.

**Mr Ford:**

If you had listened to the early stages of the Committee's previous discussions, you might well have had plenty of evidence of that issue having been raised.

**The Chairperson:**

The departmental officials may well wish to reflect on that and look back on some of the notes from those discussions.

**Mr Beggs:**

The Bill proposes that, when authorising and permitting anyone to undertake an operation that may damage any of the features of an ASSI, public bodies will be under an obligation to contact the Department and to show how they have taken on board the concerns of the Department in any of the decisions that they make. I can think of that being relevant to the Northern Ireland Environment Agency and the Planning Service. What other public bodies will be under that obligation? Other than planning, what issues will be covered by that guidance? Furthermore, how will it be ensured that a balanced outcome is reached?

I am conscious of a planning issue that arose around five years ago. There was a proposal to extend a small fishing lake, with extensive environmental improvements that would have improved the habitat of a variety of species. The proposal was refused because of opposition

from the Northern Ireland Environment Agency. At a site meeting, I asked how long it would take for the habitat to re-establish itself and be improved on what was there. The officer from the Northern Ireland Environment Agency said that it would take two years, and, as soon as he said that, he realised that he could not stand over his decision to refuse the approval. He was preventing environmental improvement and a small fishery from being extended because the habitat would have been disrupted for a brief period, even though it would have been enhanced thereafter. How is it being ensured that a balanced outcome is reached and that a total block is not put on change in an area if such change would result in an improvement in the habitat there?

**Mr C Savage:**

Obviously, the provision is about the broad obligation on public authorities. Any body that directly undertakes or gives consent to a planning project that might impact negatively on an ASSI will have an obligation to talk to the Department through NIEA to see whether any significant concerns exist. That will be dealt with on a case-by-case basis. I cannot comment on the case that you raised because I do not know of it, but that is the broad provision for each case.

**Mr Beggs:**

What other public bodies might be included?

**Mr C Savage:**

The legislation defines that; it is any public authority that has authority to undertake a plan or project. That includes Roads Service and Northern Ireland Water and any public body that carries out activity that could impact on a site. It is important to point out that many of our ASSIs underpin our European sites and that European law requires quite strict protection of the European sites. Therefore, it is quite important that when various public authorities undertake their plans and projects, they talk to the Department so that any concerns about any impact on a site can be identified.

**The Chairperson:**

Thank you for your presentation. I have no doubt that we will return to the topic.



**Mr C Savage:**

We look forward to working with the Committee at the clause-by-clause stage.

**The Chairperson:**

I remind members that key stakeholders have already been invited to comment on the Bill. It may be useful to invite other Departments and local authorities, through NILGA and individually, to comment on the Bill, specifically on the new biodiversity duty that the Bill will introduce. It might also be advisable to seek comment from the PSNI on the enforcement requirements that the Bill will place on it. Are members content that we take that approach?

*Members indicated assent.*