



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

**Welfare of Animals Bill:
Clause-by-Clause Scrutiny**

7 December 2010

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Stephen Moutray (Chairperson)
Mr Roy Beggs (Deputy Chairperson)
Mr Trevor Clarke
Mr Willie Clarke
Mr Simpson Gibson
Mr William Irwin
Mr Francie Molloy

Witnesses:

Ms Kate Davey)
Mr Andrew Kell) Department of Agriculture and Rural Development
Ms Colette McMaster)

The Chairperson (Mr Moutray):

I welcome the witnesses Ms Kate Davey, Ms Colette McMaster, and Mr Andrew Kell from the Department.

Ms Kate Davey (Department of Agriculture):

I apologise for Paddy McGuckian, who has not been able to attend.

The Chairperson:

That is fine.

Clause 6 (Docking of dogs' tails)

The Chairperson:

The Committee agreed to table an amendment to clause 6 as it considered the Department's proposed amendments to be too restrictive. At the last meeting, the Committee Clerk spoke to the policy of the clause. Members agreed that the Committee Clerk should liaise with the Northern Ireland Assembly Bill team and provide the Committee with a proposed amendment.

I ask Mrs Patricia Casey, Bill Clerk, to advise the Committee of the proposed amendment, a copy of which is tabled for consideration. I stress to members that the Bill Clerk is not a departmental official and that, therefore, any queries to her should be directed at the amendment.

The Bill Clerk:

Members have the Bill containing clause 6, and the draft amendment. Let me emphasise that the amendment is in draft form at this stage and that a number of minor typographical changes will be made to it. The amendment is for the consideration of members today and any changes can be made to it at that stage. I ask members to look at the amendment and consider the principle of it.

Members should look at clause 6. I met with the Committee Clerk last week and was advised that the Committee was looking for it in respect of policy. It was agreed that subsections (1), (2) and (3) would remain the same. The amendment starts at the end of subsection (3), at the word "surgeon"; so, at page 4, line 17, we will leave out the text from the word "surgeon" to the word "operation". We are removing subsections (4), (5) and (6) and, in the draft, we are inserting new subsections from (4) to (18).

I will take members through each subsection in turn. Subsection (4) provides that the offences in subsections (1) and (2) do not apply if the dog is a certified working dog that is not more than five days old. Subsection (5) gives a definition of a certified working dog:

“For the purposes of subsection (4), a dog is a certified working dog if the veterinary surgeon has certified, in accordance with regulations made by the Department, that the first and second conditions mentioned below are met.”

Those first and second conditions are in subsections (6) and (7). In subsection (6), the first condition is:

“that there has been produced to the veterinary surgeon such evidence as the Department may by regulations require for the purpose of showing that the dog is likely to be used for work in connection with lawful pest control or the lawful shooting of animals.”

The second condition that has to be met is that the dog

“is of a type specified in Schedule 6 for the purposes of this subsection.”

If members turn over the page, they will see the draft of schedule 6. I propose that the heading of that is amended to read:

“Dogs specified for the purposes of sections 6(6) and 6(7) as specified types of dogs”

Members can see that there are already three types of dogs in schedule 6.

Subsection (8) provides the Department with the power by regulations to add to or remove from the list in schedule 6.

Moving on to subsection (9); it will be a defence of a person accused of an offence under subsections (1) or (2) to show that they reasonably believed that the dog was a certified working dog in accordance with subsection (4). Subsection (10) is another offence. I think that that

change has already been made. It is proposed that:

“A person commits an offence if —

(a) he owns a subsection (4) dog, and

(b) fails to take reasonable steps to secure that, before the dog is 8 weeks old, it is identified as a subsection (4) dog in accordance with regulations made by the Department.”

Moving on to subsection (11) —

Mr Beggs:

What is the point of having the “eight weeks old” deadline? Is that the age when pups are frequently sold? We need clarification on why we are using that time frame.

The Bill Clerk:

We will need to come back to you on that. Perhaps the Department could advise.

Ms Kate Davey (Department of Agriculture and Rural Development):

Members may recall that that was one of the Department’s original proposals in its policy paper. The dog has to be identified, and we are probably talking about something such as microchipping, but it cannot be microchipped until it is slightly older. We want to ensure that the dog is identified prior to leaving the breeder, and a pup usually leaves the breeder at six to eight weeks.

The English exemption is 13 weeks. However, that is one of the difficulties, because the dog leaves the breeder, is not identified, and it is the new owner who identifies it. From a veterinary perspective, one could microchip that dog at eight weeks.

Mr Beggs:

That is fine. Thank you.

The Bill Clerk:

Subsection (11), which is another offence, states:

“A person commits an offence if that person takes a dog, or causes a dog to be taken, from a place in Northern Ireland for the purpose of having the whole or any part of its tail removed, otherwise than for the purpose of medical treatment administered by a veterinary surgeon.”

Subsection (12) states that a person commits an offence if —

“that person shows a dog at an event to which members of the public are admitted on payment of a fee.”.

Subsection (13) provides an exemption to that:

“Where a dog is shown only for the purpose of demonstrating its working ability, subsection (12) does not apply if the dog is a subsection (4) dog.”

Subsection (14) is a defence for a person accused of the offence of showing a dog. It states:

“It is a defence for a person accused of an offence under subsection (12) to show that that person reasonably believed —

- (a) That the event was not one to which members of the public were admitted on payment of an entrance fee;
- (b) That the removal took place before the day on which this section comes into operation; or
- (c) That the dog was one in relation to which subsection (13) applies.”

So, there are a number of exceptions or defences to the offence in subsection (12).

Mr Beggs:

In subsection (12)(a), what is the relevance of the words “on payment of a fee”? Would the

subsection not equally apply if people were just showing dogs? Why does paying a fee become significant? People would potentially still be able to show those dogs.

Ms Davey:

You are right. Basically, it was to try and target the larger shows. The policy is to stop a dog with a docked tail being shown. One could stop that paragraph just as easily after the words, “the public were admitted” and leave out “on payment of an entrance fee”.

The Chairperson:

Are members content that we do that?

Members indicated assent.

The Bill Clerk:

Subsection (15) states that:

“A person commits an offence if that person knowingly gives false information to a veterinary surgeon in connection with the giving of a certificate for the purposes of this section.”

Subsection (16) is about the Department being given regulatory powers about the functions of inspectors in relation to certificates and the identification of dogs as subsection (4) dogs. Subsection (17) is a consultation provision, and states:

“Before making regulations under this section, the Department must consult such persons appearing to the Department to represent any interests concerned as the Department considers appropriate.”

Subsection (18) contains a definition of a subsection (4) dog.

There are number of minor proposals in respect of making improvements to the draft amendment. Subsections 12(c), 14(b) and 18 refer to the period after the section comes into operation. I propose changing those to read “coming into operation of this section”. It is just a minor amendment. The Committee Clerk advised that the Committee was seeking that amendment.

Mr Beggs:

I would like to go back to paragraph 14(a). Paragraph 12(a) relates to payment of a fee. Paragraph 14(a) includes the words “payment of an entrance fee”. I would have thought that removing those words would apply to that paragraph too. Can we have feedback from the officials on that?

Ms Davey:

Sorry, would you mind repeating what you said?

Mr Beggs:

Subsection 14 states that it is a defence for a person showing an animal that has a docked tail, and paragraph 14(a) indicates that it is a defence if a person reasonably believed that the event was not one to which members of the public were being admitted on payment of an entrance fee. I think that we should be consistent, as we have taken out words “entrance fee” from the earlier subsection.

Ms Davey:

Yes, that would have to be amended.

The Bill Clerk:

There will be a consequential amendment to subsection 14(a). The words from “on” to “fee” will be removed.

The Chairperson:

Do the departmental officials wish to comment at this point?

Ms Davey:

We would like to take advice on the definition of the word “type”. Instead of using that word, we propose using the word “breed” and talk about breeds of dogs as opposed to types of dogs. My understanding is that a spaniel is a type of dog, but a springer spaniel is a breed of dog. Therefore, one would have combinations of breeds of dogs as opposed to types of dogs. I suggest that the word “type” becomes “breed” throughout, but I would like to take legal advice and come back to the Committee Clerk on that matter.

The Chairperson:

Could you come back to us before Monday? We have to agree this on Monday?

Ms Davey:

I will come back long before Monday.

Mr T Clarke:

Before we get to that stage, there is a problem in relation to breeds of terriers, so how would you define a terrier as a breed as opposed to a type, given that a Jack Russell is not a specified breed.

Ms Davey:

Jack Russell is a breed. It may not be a registered breed but it is a breed of dog. There are various breeds. Jack Russell is a breed, and Norfolk terrier is a breed. Therefore, we are not trying to change that. All we are trying to do is clarify it for future enforcement. We will take legal advice, but my understanding is that there are various breeds of terriers, and a Jack Russell is just one of those breeds.

Mr Beggs:

Subsection 8 states that the Department may by regulations add to, or remove, types of dog from the list in schedule 6. Will that be by affirmative or negative resolution?

The Bill Clerk:

The Committee will have to consider whether they want regulations under clause 6 to be subject to negative or positive resolution. When the Committee makes its decision, an amendment to clause 55 will be required.

Mr Beggs:

It is still a live issue then.

The Chairperson:

I remind members that any other consequential amendments will also be considered on Monday, as well as clause 6. Are members content?

Members indicated assent.

The Chairperson:

The Committee will now consider its draft report on the Welfare of Animals Bill, a copy of which has been tabled for members' consideration. We will take each section sequentially, with the exception of the section entitled "Recommendations".

I will put the following to the Committee, subject to consequential amendments being presented on Monday. Members should look at the executive summary. Those paragraphs are agreed, subject to consequential amendments being presented on Monday. Are members content with paragraph 1 of the executive summary?

Mr T Clarke:

It is difficult to find where we are.

The Chairperson:

The report was tabled today.

The Committee Clerk:

We are at page 1 of the executive summary.

The Chairperson:

We are going to go through each paragraph that we can take today.

Mr Beggs:

Can I have a copy of the report, please?

The Chairperson:

It is tabled with the papers.

Are members content with paragraph 1?

Members indicated assent.

The Chairperson:

We now move to paragraph 2.

Mr Molloy:

Paragraph 2 includes the introduction of a total ban on docking dogs' tails.

The Chairperson:

I am told that it states the principles of the Bill as presented.

Mr Molloy:

I do not agree with it as printed.

The Bill Clerk:

Paragraph 2 simply states that principles were considered. It says that it was welcomed by the Committee. It does not prevent there being subsequent changes to the Bill.

The Chairperson:

Have you got that, Mr Molloy?

Mr Molloy:

No. If this is being printed as part of the report, and we approve it, then we are approving the Bill as it is printed. That is not my intention.

Mr Irwin:

Is it not approved subject to the amendments on Monday?

Mr T Clarke:

It states that we welcomed the Bill as it was laid out; but some of us did not welcome it as it proposed a total ban.

The Bill Clerk:

An amendment could be made to state that:

“At the introduction of the Bill, the principles were considered to be as follows”.

That is simply a statement of what the principles were.

Mr Beggs:

It is fact.

Mr T Clarke:

So what will be the wording?

The Bill Clerk:

I suggest wording along the lines of:

“At the introduction of the Bill, the principles were considered to be as follows”.

Mr Molloy:

This is our report. If we leave that as it is, we will be saying that the introduction of a total ban on the docking of dogs’ tails still stands.

Mr Beggs:

The Committee has not come to that point yet. We are simply stating what was presented to us. The evidence states that that is what happened. The report does not pass any comment from the Committee on it, and if you go through the rest of the report it becomes clear that the Committee proposed an amendment to it.

Mr Molloy:

I would prefer if that line were withdrawn from the report.

Mr T Clarke:

It definitely should not be withdrawn, because that would mean that we never considered it. With that other amendment — that the introduction of the Bill and the principles of the Bill were followed — we are not actually welcoming what the introduction was about. The ban was one of the things that we considered, and we proposed an amendment to it, which shows that we did not welcome it. We looked at it and came up with possibilities to amend it.

Mr Beggs:

What was the suggested wording for paragraph 2?

The Bill Clerk:

The suggested wording is:

“At the introduction of the Bill the principles of the Bill were considered to be as follows:”

Mr Molloy:

I do not see why we have to reprint the principles that the Department put into the Bill when we do not accept them. We could include the rest of the list, but not the part about banning the docking of dogs' tails. If the Committee's amendment is accepted there will not be a total ban.

The Chairperson:

What do you propose that we remove?

The Committee Clerk

We could remove the whole of paragraph 2 and the heading “Principles of the Bill”.

The Chairperson:

OK.

Mr Beggs:

Was there a Bill? *[Laughter.]*

The Chairperson:

Members, should we remove paragraph 2 and the title “Principles of the Bill”?

Mr T Clarke:

That will weaken it. What is the point in having an executive summary without having principles for that summary? We must have principles for the piece of work that we undertook.

The Chairperson:

I am indicating what I am being told at the Table.

Mr T Clarke:

That may be the case, but if we have an executive summary we must have a reason for that summary. Paragraph 2 shows the principles under which the Committee took on this piece of work, whether Committee members agree with them or not. The principle was that we looked at a total ban on the docking of dogs' tails, but some of us felt that we should not do that. The initial principle was that we should go for a total ban and we sought an amendment afterwards.

Mr Beggs:

Would it be helpful if the report said:

“Originally the principles of the Bill were:”

I am content with the wording as it stands, but we should say something about where it started.

Mr T Clarke:

We should go with the rewording that the Bill Clerk came up with, which was

“At the introduction of the Bill the principles of the Bill were considered to be as follows:”

This was one of the principles that we set out to achieve. We did not get it, but we did propose an amendment to it, and I do not think that we can leave that entire paragraph out.

Mr Irwin:

We are talking about the principles of the Bill, and that was one of the original principles.

Mr Molloy:

This is not the Department's presentation of the Bill; it is our report on the Department's presentation of the Bill. It says in the draft report that:

“the Bill was welcomed by the Committee”.

Mr Beggs:

We are taking that out.

Mr Molloy:

We should also remove the line about the total ban on the docking of dogs' tails, because “Tail docking” is included later in the report under “Key Issues”.

Mr T Clarke:

It was a key issue. Some of us have fought harder than others. I share Mr Molloy's view on that, but we came to a compromise. Some members would have preferred if we had a total ban on tail docking, others were prepared to shift on the amendment, and we reached a consensus. The total ban on the docking of dogs' tails was one of the considerations when we started the piece of work.

The Chairperson:

There may be a form of words that we can agree. What about if we worded it as:

“At the introduction of the Bill in the Assembly the principles of the Bill were as follows:”

Are Members agreed?

Members indicated assent.

The Chairperson:

Are Committee members content with paragraph 2 as amended?

Members indicated assent.

Paragraphs 3 to 7 agreed to.

The Chairperson:

We move to paragraph 8.

Mr T Clarke:

Is paragraph 8 not causing the confusion?

The Chairperson:

In what way?

Mr T Clarke:

We are starting to put evidence back into the summary, just because of what the Minister

indicated. That is not really relevant. Mr Molloy said that this is our report; so, why are we putting the Minister's evidence into paragraph 8?

Mr W Clarke:

That was a compromise position by the Department. Some members voted that way, so it would have to be shown.

Mr Molloy:

It is sufficient to have the Minister indicating that terriers were excluded from that exemption.

Mr T Clarke:

That is right.

Mr W Clarke:

That is why we can go with the compromise.

Mr Molloy:

However, it would not be right to put in the false evidence that was created to do that.

Mr T Clarke:

That is right.

Mr W Clarke:

False evidence?

Mr T Clarke:

It is not part of this Committee's summary.

Mr W Clarke:

The compromise was sufficient in the view of some members.

Mr Beggs:

This is a summary of what happened, and is part of the journey. However, we need to read on to see the full picture. I do not have any difficulty with this.

Mr T Clarke:

If we are going to put in that summary, why do we not put in all the summaries of other people's evidence?

Mr Molloy:

Then, you would have to put in the evidence from the terrier breeders, which contradicted that. Maybe we could add that at that stage.

Mr T Clarke:

Yes, we could do that.

Mr Molloy:

That would add to the report, and recognise that that is contrary to the view that we got from the terrier breeders.

The Chairperson:

So, how do members want to take that paragraph forward?

Mr T Clarke:

I am happy with that suggestion. If members feel that the paragraph is necessary, then we should put in that that was disputed by the terrier breeders. Again, that was part of the evidence given to the Committee, and was contrary to what the Minister said.

The Chairperson:

Are members content with that?

Members indicated assent.

The Chairperson:

With that amendment, are members then content with paragraph 8?

Members indicated assent.

The Chairperson:

Are members content with paragraph 9?

Mr Molloy:

What does that actually say?

Mr Beggs:

Should we take that paragraph out? I do not know what it says.

The Chairperson:

Are members content to remove paragraph 9?

Members indicated assent.

The Chairperson:

Moving to paragraph 10.

Mr Molloy:

Are we amending that instead of tightening it? I came in at the end of the discussion about breeds instead of types.

The Chairperson:

We will come back to that on Monday.

Mr T Clarke:

Somebody tried to say that all hunting dogs were pure-bred, but the paragraph states that some stakeholders said that they were cross-bred. That seems to be a contradiction. The Department tried to force the opinion on us that those dogs were all pure-bred, but the report states that stakeholders told us that they were cross-bred.

Mr Beggs:

They can be.

Mr T Clarke:

A lot of members argued against that. That seems to be controversial. I agree with it, but I do not think that the Committee agreed. The biggest consensus in the Committee was that those dogs were all pure-bred, although a couple of us argued that they were cross-breeds.

Mr Molloy:

The point was made that spaniels, in particular, were cross-bred to get the best of both breeds.

The Chairperson:

Are members content to defer that paragraph to Monday?

Mr Beggs:

The latter part of the paragraph indicates that extending the breed types:

“would close ‘loopholes’ in the English and Welsh legislation”.

That does not make sense. That was not the reasoning behind it.

The Chairperson:

Are members content to come back to that on Monday?

Members indicated assent.

The Chairperson:

We now come to Paragraph 11.

Mr Molloy:

The same issues apply, Chairperson.

The Chairperson:

Are members content to defer that paragraph to Monday?

Members indicated assent.

Paragraph 12 agreed to.

The Chairperson:

We move to paragraph 13.

Mr T Clarke:

I dispute the sums in the paragraph because I think that NILGA does not agree with the Department's view. This is our summary, and the paragraph is not necessarily conclusive of the findings that we would make if we consulted on the cost. It is based on the Department's ambitions.

Mr Beggs:

What about amending it to state that "the Department has estimated" so that it is clear that that is

the Department's estimate?

The Chairperson:

Are members content?

Mr Molloy:

The counter argument is from NILGA, which gave examples of what the USPCA said the cost would be. At some stage, as was the case with the sentence that we dealt with earlier, we have to include a counter figure because the USPCA talked about it being a lot more costly.

Mr Beggs:

I declare an interest as a local government councillor.

The Chairperson:

Paragraph 14 reflects NILGA's position.

Mr Molloy:

It does, but paragraph 13, which includes the figures, does not. There needs to be a line to give

—

Mr Beggs:

Does paragraph 15 not indicate that?

Mr T Clarke:

Why are we dealing with the same figure in two paragraphs?

The Chairperson:

If members will read paragraphs 13 to 18, we will then deal with them. Reading them together rather than individually may set the scene better.

Mr Molloy:

We may need to rearrange the paragraphs.

The Chairperson:

If members take a second to read through paragraphs 13 to 18, we will come back to them.

Mr Molloy:

I suggest that, with some tidying up, paragraph 15 should follow paragraph 13, and vice versa.

The Chairperson:

Are you suggesting that we move paragraph 15 after paragraph 13, and then make paragraph 14, paragraph 15?

Mr Molloy:

Yes.

The Chairperson:

Are members content with that change?

Mr Beggs:

I just noticed that paragraph 15 starts with “secondly”, so does that need tidying up as well?

The Chairperson:

Yes. Are members content that we follow that line?

Mr Molloy:

I have just one wee point: this seems to be more on the lines of the appointment of inspectors. Appointing inspectors is only one aspect of councils’ likely resources and expense costs. I can see a situation where some councils are ready to appoint, and others not, which would lead to variation. The Department committed itself to a proper consultation with councils. We need that firmly stated in the report.

The Chairperson:

Does paragraph 18 not reflect that?

Mr Molloy:

I do not think that it does, because it basically says that when the Department gets that function passed to councils, it would ask them in for quarterly reports to see how it was going. There is nothing to say that the resources will continue, or where the money will come from, under a different Minister or different departmental officials, which is a point that the Committee raised. Local government could be sponsored for that in the first year, but there may be a different policy in the next year.

The Chairperson:

That was explained to us at some length. We cannot go further than this mandate.

Mr Beggs:

That applies to any form of funding from Departments to local government. One cannot commit further than a CSR period or a current Minister's mandate. One may have concerns, but I am not aware of any way around that.

Mr T Clarke:

We need to include in the summary that we raised concerns about that.

Mr Molloy:

There is an alternative: it is that the Department does not pass this on to local government and appoints and pays for inspectors and carries out that role itself.

Mr T Clarke:

That is true, given that the Department thinks that it can do it for £760,000 when councils know otherwise.

Mr Molloy:

And the Department would have to continue to do it for that money.

Mr T Clarke:

The Department can do it cheaper than the councils.

Mr Molloy:

So, maybe the Department should carry out that function instead of transferring it to local government, unless funds can be secured for the foreseeable future. The Department agreed to consult with councils but it will simply tell them when they are going to appoint inspectors. This is not about changing that approach.

The Chairperson:

We have already completed the formal clause-by-clause scrutiny. We are where we are. It has been accepted.

Mr Molloy:

I know, but we can still change our minds. We have not printed the report.

The Chairperson:

You cannot change your mind today.

Mr Molloy:

All that we are doing is writing a report that does not really change the position or give local government the opportunity to make its case. Once we pass this Bill, it will be accepted and the function will be transferred. If there are no resources for this function next year, under a new Minister, then we are saying in this paragraph that that is too bad.

The Chairperson:

Could we include a recommendation in the report to highlight that fact? We cannot change it today.

Mr Molloy:

OK.

The Chairperson:

It would highlight the fact that you have raised.

Mr Molloy:

The main point that I am making is that it is not just about the appointment of inspectors. That is one aspect of the cost. The appointment of inspectors might work out to be the cheapest part of the whole thing. It is the whole process that local government will have to take on to administer it. We need something to highlight that.

Mr Beggs:

I suggest that we add that funding should be reviewed in light of experience. It is being stated that it will be such-and-such a figure based on 4,500 calls a year, but we doubt that that is the right number. We should say that it should be reviewed in light of experience.

Mr Gibson:

That seems all right.

Mr Molloy:

Paragraph 18 means nothing; it just states that local government will be met quarterly and asked how much it is costing. We are not saying that funding will be reviewed or changed, or that the Department will give a commitment to —

Mr Beggs:

Add it in there, then.

The Chairperson:

If we take paragraph 15 and add at the end: “after allocations, it clearly should be reviewed in light of experience”. How does that sit?

Mr Beggs:

I propose that amendment.

The Chairperson:

Are members agreed?

Members indicated assent.

The Chairperson:

Mr Molloy, are you saying that you want paragraph 18 removed?

Mr Molloy:

No. It needs something to finish it off so that it means something.

The Chairperson:

What if we change the word “suggested” to something firmer?

The Committee Clerk:

What about “recommends”?

Mr Molloy:

To do what? We need something stronger to ensure that adequate progress is made in respect of those matters. It is not just about reviewing it and then walking away from it.

The Chairperson:

Do members want to come back to paragraph 18 on Monday? Can we agree the rest?

Mr W Clarke:

Perhaps the wording, “that adequate progress on guarantees is made in respect of these matters”, would be useful.

Mr Molloy:

Coming back to it on Monday would be best.

The Chairperson:

We could take a day or two at it. We have completed paragraphs 13 to 17. Are members content to come back to paragraph 18 on Monday?

Mr W Clarke:

Come back to what, Chairperson?

The Chairperson:

We will see whether we can agree a stronger and more acceptable wording.

Mr W Clarke:

We can get it here now.

Mr T Clarke:

Do you two boys want to outside and agree something?

Mr W Clarke:

We are not going to change now.

Mr Beggs:

Monday will be the last crack at it.

Paragraphs 19 to 21 agreed to.

The Chairperson:

Do members agree to paragraph 22?

Mr T Clarke:

Paragraph 22 is about breeding establishments. How does the licensing regime work at the moment?

Ms McMaster:

There is legislation on breeding establishments, but they are not licensed in the way that they will be in future. We propose to introduce more comprehensive and tighter standards to control the administration of breeding establishments. That will be done through a new set of regulations.

Mr T Clarke:

Are they licensed at the moment?

Ms McMaster:

There is legislation, but they are not licensed in the same way.

Ms Davey:

I am not 100% sure whether they are licensed or registered, but there is a requirement for them to apply to the district council for a registration. They are inspected by district council staff under the Dogs (Northern Ireland) Order 1983.

Mr T Clarke:

Paragraph 22 says:

“The Department advises that this function is currently undertaken by local councils.”

However, we are unsure whether the function is licensing or registration.

Ms Davey:

It is an inspection process.

Mr T Clarke:

This is about the choice of words. We are talking about the licensing of breeding establishments. Is that the current function? If not, we cannot leave that paragraph as it is worded.

Ms Davey:

We will check whether the word is licensing or registration, but the councils have a role. A person cannot operate a breeding establishment without applying to the district council and having the establishment inspected and approved by the district council. At this point, there is no fee for that, but the councils carry out an inspection role.

Mr T Clarke:

Paragraph 22 continues:

“In addition, councils will be in a position to buy in veterinary expertise which can be included in the charges levied against breeding establishments.”

Ms Davey:

I just checked; it is registered, not licensing. Establishments must be registered by the district council. They inspect the establishments and register them as a breeding establishment under the Dogs (Northern Ireland) Order 1983.

Mr T Clarke:

That wording will not work.

Mr Molloy:

I agree, because local government does not handle licences at the moment.

Ms Davey:

There is no licence; it is a registration under the Dogs (Northern Ireland) Order 1983.

Mr T Clarke:

The paragraph is about licensing of breeding establishments. We are saying that if we are talking about licensing we cannot start talking about registrations.

The Chairperson:

Paragraph 22 is, in effect, about registration.

Mr T Clarke:

The Department is advising that the function is currently undertaken by local councils. It is not. Local councils do not license those establishments and, therefore, cannot take on that function.

Ms McMaster:

Councils have enforcement responsibility in respect of the —

Mr T Clarke:

I appreciate where you are coming from. However, the problem is that paragraph 22 deals with licensing of breeding establishments.

Ms Davey:

The powers in the Bill in clause 12 cover licensing or registration, and, in the future — and we will give a paper on this to the Committee — it will become a licensing system for dog breeding establishments.

Mr T Clarke:

At the moment, in the paragraph on the licensing of breeding establishments, we are saying that the Department advises that that function is currently undertaken by councils. It is not.

Mr Molloy:

Chairperson, what we really need here is that:

“The Department advises that a registration function is currently undertaken by local councils.”

Mr T Clarke:

Yes. The current wording gives the impression that councils are responsible for licensing.

Mr Beggs:

Which paragraph are we talking about?

The Chairperson:

Paragraph 22.

Mr Molloy:

Paragraph 21 deals with licensing.

Mr W Clarke:

We will have to change paragraph 21 as well.

Mr Molloy:

No, paragraph 22 is the problem.

Mr Beggs:

What about rewording paragraph 22 to read:

“The Department advises that monitoring is undertaken by local councils” ?

Ms Davey:

It is more than monitoring. Breeding establishments cannot operate unless they are registered by a local council.

Mr Beggs:

OK. We could change the word “monitoring” to “registration.”

The Chairperson:

Mr Molloy suggested using the phrase “registration function.” That sounds better.

Mr W Clarke:

That is dead on.

Mr Beggs:

So, are we changing paragraph 22 to read:

“The Department advises that registration function is undertaken by local councils” ?

The Chairperson:

Yes.

Mr T Clarke:

What was that? Give us that again.

The Committee Clerk:

We will be changing paragraph 22 to read:

“The Department advises that this registration function is currently undertaken” —

Mr Molloy:

No, “this” should not be included. It should read:

“The Department advises that a registration function is currently undertaken by local government” .

The Chairperson:

Do Committee members agree to that amendment to paragraph 22?

Members indicated assent.

The Chairperson:

We now move on to paragraph 23.

Mr Molloy:

Before we leave paragraph 22, should we repeat the point in paragraph 21 about full cost recovery? We could say something like:

“It is important that councils have full cost recovery.”

Paragraph 22 talks about buying-in veterinary expertise, which is expensive. It needs to be reinforced that councils will be able to recover their full costs. That may be coming, but it may also need to be repeated.

The Chairperson:

Perhaps officials can shed some light on that? Will there be full cost recovery for councils?

Ms McMaster:

Subordinate regulations will be drawn up to ensure that there will be full cost recovery for licensing and registration activities.

The Chairperson:

We are talking about full cost recovery for veterinary expertise.

Ms McMaster:

If the veterinary expertise comes as part of the licensing and registration activities that involve animals it will be covered by full cost recovery.

The Chairperson:

Are you content with that Mr Molloy?

Mr Molloy:

In one sense, you could say that paragraph 22 is unnecessary. It is an add-on to paragraph 21, and we could combine both paragraphs to show that there will be full cost recovery.

The Chairperson:

Sorry?

Mr Molloy:

I am suggesting that we combine paragraphs 21 and 22. The detail in paragraph 22 that:

“The Department advises that a registration function is undertaken by local councils”,

and,

“In addition, councils will be in a position to buy-in veterinary expertise”,

do not really tie in. If we are keeping paragraphs 21 and 22, the detail about full cost recovery must also be included at the end of paragraph 22.

The Chairperson:

Are members content that we —

Mr T Clarke:

Why not take it out altogether?

Mr W Clarke:

We could look at a new paragraph on Monday that amalgamates paragraphs 21 and 22.

The Chairperson:

We will come back to it on Monday.

Mr Molloy:

A rewording would be better.

Paragraph 23 agreed to.

The Chairperson:

We will return to paragraph 24 on Monday.

Paragraphs 24 to 28 agreed to.

The Chairperson:

Are members content with paragraphs 29 to 97 inclusive, which are a summary of the clauses contained in the Bill as provided in the explanatory and financial memorandum?

Mr T Clarke:

Surely clause 6 will not work then?

Mr W Clarke:

This is factual.

Mr Molloy:

Why is this in our report?

Mr W Clarke:

We are showing what it was like originally. If we are going to amend something, we need to show the original Bill.

Mr Molloy:

It does not show the amendments.

The Committee Clerk:

I have been told that the Agriculture Committee has always done it this way. It has always taken a straight lift of all the clauses from the original Bill that was introduced to the Assembly and put it in the report. I have never done it in any Committee that I have been on, but it is your choice whether you want to put it in or not.

Mr Molloy:

If you read it that way, it looks as though we had agreement on all those items. Page 24 relates to the summary of consideration and agreed amendments.

The Committee Clerk:

You could take out pages 9 to 23 and not include them as part of the report.

Mr Molloy:

Members will have a copy of the Bill anyway.

Mr T Clarke:

Can someone let Stephen Nolan know how much we are going to save by taking those pages out?

Mr W Clarke:

If someone were reading the report, would the original clauses not give some sort of context? If we take those out, people will not know what we are amending.

The Chairperson:

They will have a copy of the Bill.

The Committee Clerk:

Nowadays, most people do not buy a copy of a report. They look at it online; so you could insert a hyperlink to the Bill at the back of the report.

Mr W Clarke:

Something like that would do.

Mr Molloy:

If the Department wants to publish the Bill, it is up to them, but our report is supposed to be a critical report.

The Chairperson:

OK, members. The consensus is to remove those pages.

Mr T Clarke:

The Environment Committee will be proud of you.

The Chairperson:

OK. We will now move to page 24, paragraph 98. Are members content with paragraph 98?

Mr Molloy:

Should we include that list of permitted procedures in the report?

Mr Gibson:

That is the point that I was dwelling on.

The Chairperson:

I am told that it is in the appendices. Are members content with paragraph 98?

Members indicated assent.

Paragraph 99 agreed to.

Mr Molloy:

On a general point, does any subordinate legislation coming through the Assembly still have to come through the Committee first?

The Chairperson:

Yes.

Paragraphs 100 and 101 agreed to.

The Chairperson:

Are members content to defer a decision on paragraphs 102 to 108 until Monday?

Members indicated assent.

Paragraphs 109 and 110 agreed to.

The Chairperson:

Are members content with paragraph 111?

Mr T Clarke:

It states: “not less than 12 months”. Should that not be “not more than 12 months”?

The Chairperson:

No.

Mr T Clarke:

I thought it was “not more than 12 months”. Does that mean that it could take longer?

The Chairperson:

It would be deferred for a period of not less than 12 months.

Mr T Clarke:

So it states that it could take longer than 12 months? It is a minimum of 12 months?

Mr Molloy:

It is basically giving the Department time to gather the evidence.

Mr T Clarke:

So there is no time limit? I was under the impression that it should have been not more than 12 months, to give people time to get up to speed to do the job. It states: “not less than 12 months”, so it could take forever.

Ms McMaster:

We will be working with councils with a view to making them ready to do that within 12 months.

The Chairperson:

Have you read the full paragraph?

Mr T Clarke:

Have I read it wrong?

The Chairperson:

It states:

“to allow for extensive consultation to be undertaken between the Department and elected council representatives.”

Mr T Clarke:

But if it will take not less than 12 months, it could take three years.

Mr Molloy:

It has to read “not less”, because if it says that it has to be done in 12 months then in 12 months time the Department would basically say to councils that it is their job and they should get on with it, whereas this way there will be negotiations between local government and the Department. That ensures that the money will have to be there to finance local government to do it. I think it creates a better negotiating position between the Department and the councils.

Mr T Clarke:

I accept what you said, Chairperson. The only bit that concerns me is that, if they do not get

agreement after 12 months, where does the responsibility lie for getting the powers in relation to animals in stress.

Mr Molloy:

It still goes back to the Department. The Department is proposing to work in partnership with councils. If they do not work in partnership with the councils then this reverts to the Department, because it has overall responsibility. That is my reading of it anyway.

Mr Beggs:

Mr understanding is that the 12 months is to ensure that local government has sufficient time to work with the Department to get a protocol and procedures to deal with the issue and put appropriate training and guidance in place. I think it is fine; in fact, we did not want it coming in too quickly when local government was not ready for it. We reflected that in our comments.

Mr T Clarke:

I am content with what Mr Molloy has said. What we are really saying is that, if it is not done within 12 months between the Department and the council, responsibility for the distress of those animals will fall directly to the Department. That is fair enough.

Mr Molloy:

Maybe we should add a line to that stating that, if no agreement is reached, the Department should continue with its responsibility.

Mr T Clarke:

That would do.

The Chairperson:

I will bring in the Department to get a bit of clarity about where it stands.

Ms McMaster:

Clause 45, as amended, makes a clear split in the enforcement responsibility for the Department and for the councils. The intention of splitting the responsibility is so that it can be commenced at different times. However, clause 45 then specifies that the enforcement role of the Department is in respect of farmed animals, and the enforcement role for councils is in respect of other animals.

The split means that those roles can be started at different times, which means that the Department's role can be commenced immediately after the Bill is enacted. However, there will be preparation time, when the Department will work with councils to ensure that they are ready before we commence that role for the councils.

The Chairperson:

Thank you. Does that provide clarity for members?

Mr Molloy:

That makes the point that Trevor made, which is that we need clarification. Somebody has to have responsibility, and if no agreement is reached within 12 months, the Department continues with those responsibilities.

The Chairperson:

OK. Are members content with paragraph 111, with that addition?

Mr Beggs:

What is the extra wording?

Mr Molloy:

The wording is that if no agreement is reached, which puts an onus on councils and the Department to reach an agreement, the Department continues with its responsibility for animals in distress.

Mr Beggs:

That is not what the legislation says. We are doing the report.

Mr Molloy:

That is our report.

The Chairperson:

Will we defer that until Monday?

Members indicated assent.

The Chairperson:

We move on to paragraph 112. I have to leave the meeting, and the Deputy Chairperson will take over.

The Deputy Chairperson [Mr Beggs] in the Chair.

The Deputy Chairperson:

Are members content with paragraph 112?

Mr T Clarke:

What is the purpose of that paragraph? Are we now facilitating between councils and the Department?

The Deputy Chairperson:

I share your thinking. It may be better if the Committee took regular briefings from local government and the Department. Would that be a better way to deal with this? We cannot play piggy in the middle, with both in at one time, and hosting the meeting. However, the Committee could regularly consult local government and the Department as the Bill progresses. Would the wording, “consult with local government and the Department on the outworkings of the legislation” work?

Members indicated assent.

Paragraphs 113 and 114 agreed to.

The Deputy Chairperson:

Are members content with paragraph 115?

Mr T Clarke:

Again, this says that we are hosting meetings. I do not think that it is necessary for us to host a meeting. Perhaps there could be a written update, although I do not know how one would suitably word that. I do not see why the Committee should host meetings between the Department and the councils.

The Deputy Chairperson:

Is it being suggested that we remove the rest of the sentence after “not less than 12 months”?

The Committee Clerk:

No, it is suggested that the words after “not less than 12 months” should be removed and that we add:

“and that the Committee should receive regular progress briefings.”

Mr T Clarke:

It should read:

“and that the Committee should receive regular written progress briefings.”

The Deputy Chairperson:

It could be either.

Mr W Clarke:

Yes, we do not want to confine it to written briefings.

The Deputy Chairperson:

We could leave it at:

“and that the Committee should receive regular progress briefings.”

That would mean that we could receive written and oral briefings. Are members content?

Members indicated assent.

The Deputy Chairperson:

I am told that paragraphs 116 to 130 deal with consequential amendments, and that we will need to return to those paragraphs on Monday. Monday is going to be a busy day.

We move to paragraph 131. Are members content, or do they wish to alter it?

Mr Molloy:

Paragraph 131 deals with the same issue of inspectors under clause 45 that we dealt with earlier.

The Deputy Chairperson:

The previous discussion was on its inclusion in the executive summary, whereas paragraph 131 goes into the detail of the issue. Are members content with paragraph 131 or do you wish to propose an amendment?

Mr Molloy:

I think that we should repeat that the onus on the Department to bring forward the regulations. However, perhaps that was covered in the earlier part of the report.

The Deputy Chairperson:

Does anyone wish to suggest a specific amendment or are members content with paragraph 131 as it stands? Perhaps we should have read through the main body of the report and then dealt with the executive summary. Are members content with paragraph 131?

Members indicated assent.

The Deputy Chairperson:

We now move to paragraph 132. I suggest that members take a few moments to read through the section on clause 45 as a whole so that we do not bite off bits of it. Please read paragraphs 132 to 136?

Mr Molloy:

Again, paragraph 135 mentions the Committee hosting progress meetings.

The Deputy Chairperson:

We will change that when we get to that paragraph. I wanted members to read the section, and, if they are content, we will go back and deal with it on a paragraph-by-paragraph basis. We will now move to paragraph 132. Are members content with that paragraph?

Members indicated assent.

The Deputy Chairperson:

Are members content with paragraph 133?

Mr T Clarke:

There is a difficulty in this paragraph about who is responsible for non-farmed animals, and I am surprised that the Department did not say something sooner. Earlier, Mr Molloy and I agreed with the Department that it would insert a clause so that responsibility for non-farmed animals would fall back to the Department. Paragraph 133 suggests that the Department has proposed an amendment so that responsibility for non-farmed animals would automatically fall back to councils, yet the Department did not highlight that during that previous discussion.

The Deputy Chairperson:

This all happened previously when we went through the clause-by-clause scrutiny.

Mr T Clarke:

No; it happened just a few minutes ago. If we accept what the Department said about non-farmed animals, the paragraph that we amended earlier means that although we said that the Department should take responsibility if the inspectors are not in place, this paragraph is saying that non-farmed animals are the responsibility of councils anyway because the Department is trying to separate the two.

The Deputy Chairperson:

This report reflects the Committee's debate about the clauses over the past number of weeks, if not months. It is not trying to reassess; it is trying to factually reflect the evidence that was presented and which is available in the Hansard report. Do the officials wish to say anything at this stage?

Ms McMaster:

It was discussed earlier, as you said. An amendment to clause 45 was proposed to split the two enforcement roles, with the Department having the enforcement role for farmed animals and councils having the role for other animals. We do not have a copy of the Committee's draft report, so we cannot see what wording members are looking at.

Mr Molloy:

The separation of the two issues was the argument that we had when we worked through the clause-by-clause scrutiny. I made the point that that was the first time that the Department had separated the two things. It was my impression that we were talking about non-farmed animals in the Bill and I think that the Department amended that to cover itself because of the change in the legislation. If the clause lay dormant, the responsibility for non-farmed animals would rest with the Department until the clause comes into operation.

The Deputy Chairperson:

I ask members to look at paragraph 133. This is our report, which is trying to record the process that we went through. Do you think that it accurately reflects what happened or do you wish to amend it to reflect what happened? Do you want it removed?

Mr Molloy:

It is an accurate report of what happened.

The Deputy Chairperson:

Are members content?

Members indicated assent.

Paragraph 134 agreed to.

The Deputy Chairperson:

We now come to paragraph 135. The wording that we agreed was:

“The Committee has also agreed to receive regular briefings”.

Mr Molloy:

There is a role for this Committee because a scrutiny Committee has to monitor what is going on between the Department and the councils. Will this give us the right to inspect the Department’s files in the same way as the Department can inspect a farm?

The Deputy Chairperson:

Have we suggested an amendment? A whole lot of things were thrown at me.

Mr T Clarke:

A progress report would do, because if we were not satisfied with that, we could call the Department to give evidence.

Mr W Clarke:

The same terminology is needed throughout.

Mr T Clarke:

That terminology would allow us to bring in the Department and councils if we believe that progress is not being made.

The Deputy Chairperson:

We have the power to do that whether it is in the report.

Mr T Clarke:

We do not need to do it unnecessarily. That is the problem. The way that that is worded means that we would do it unnecessarily because we hope that, by mutual agreement between councils and the Department, we would not necessarily need to do it anyway.

The Deputy Chairperson:

We agreed to monitor progress between councillors and the Department. The Clerk has suggested amending the paragraph so that it states:

“The Committee has also agreed to receive regular progress briefings from the elected councillors and the Department to ensure adequate movement in respect of these matters.”

That would reflect the wording that was there before. Are members content?

Members indicated assent.

The Deputy Chairperson:

We move to paragraph 136. It is factual: we either did or did not.

Mr Molloy:

Although it states that the Committee agreed the amendment, should we not state what the amendment was?

The Deputy Chairperson:

We agreed the amendment to clause 45. Do we need to include it again? That is not the normal way of reporting. Are members content to add the wording of the amendment in at this stage?

Members indicated assent.

The Deputy Chairperson:

I have been told that we have to defer clause 55 because there will be an amendment. We will skip paragraphs 137 and 138 at this stage and move to 139. What are members' views on that paragraph?

Mr Molloy:

The two examples in that paragraph are not the best examples because they relate more to farm practices. The list will add to that, but ear-tagging and microchipping are two lesser problems compared with some of the issues that we have been talking about, particularly the docking of dogs' tails.

The Deputy Chairperson:

Are members content that a number of other examples will be used instead on a definitive list?

Mr Molloy:

Microchipping does not relate to farm animals.

The Deputy Chairperson:

The Committee Clerk will add other examples from the list, and we will finalise that on Monday.

Are members content?

Members indicated assent.

Paragraph 140 agreed to.

The Deputy Chairperson:

Paragraph 141 contains some technical and factual information.

Mr Molloy:

We will come back to clause 5 anyway, will we not?

The Deputy Chairperson:

I am told that clause 5 sits separately and that we do not necessarily need to come back to it.

Technical changes have been made to the schedules, and so on. Are members content with the accuracy?

Members indicated assent.

The Deputy Chairperson:

Do members agree to paragraph 142? In light of what we did earlier, if there is an amendment, its wording should be included. Are members content with that?

Members indicated assent.

The Deputy Chairperson:

I am told that a large section of paragraphs 143 to 172 is a direct repetition of minutes that have previously been agreed. We do not need to go through them in detail because they are reflected in the agreed minutes. Based on that, are members content with that section en bloc?

Members indicated assent.

The Deputy Chairperson:

Paragraphs 173 to 206 are lifted directly from the minutes, which have been approved. Are members content that we agree those paragraphs?

Members indicated assent.

The Deputy Chairperson:

Paragraphs 207 and 208 have to be deferred until we finalise next Monday.

That is the completion of our scrutiny today. Thank you very much.