



**Northern Ireland  
Assembly**

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**COMMITTEE FOR  
SOCIAL DEVELOPMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Caravans Bill**

4 November 2010

**NORTHERN IRELAND ASSEMBLY**

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**COMMITTEE FOR  
SOCIAL DEVELOPMENT**

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**Caravans Bill**

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

Mr Simon Hamilton (Chairperson)  
Ms Carál Ní Chuilín (Deputy Chairperson)  
Mr Sydney Anderson  
Mrs Mary Bradley  
Mr Mickey Brady  
Mr Jonathan Craig  
Mr Alex Easton  
Ms Anna Lo  
Mr John McAllister  
Mr Fra McCann

**Witnesses:**

Mr Stephen Martin       )       Department of Social Development

***Clause 8 (Particulars of agreements)***

**The Chairperson (Mr Hamilton):**

With us today is Mr Stephen Martin from the Department for Social Development.

**Mr McCallister:**

I declare an interest and will speak as the Bill's sponsor. There was some criticism during the Second Stage debate on the Bill that it did not go far enough in protecting rights. The proposed amendment to the Bill that deals with qualifying residents' associations was an attempt to give people who wanted to form a group that site owners must recognise the right to do so.

In conjunction with the Bill Office and the Bill Clerk, we have attempted to achieve a balance in drafting an amendment that is neither too draconian nor could be criticised by some as being completely toothless. Achieving that balance has been difficult, but we believe that this can have a positive effect. We wanted to copy the Committee in on any drafts of the proposed amendment to establish whether the Committee feel that this is worth pursuing. We also wanted to take the Committee's view on whether the amendment adds to the Bill and to the rights of those in the holiday sector.

**The Chairperson:**

I want to hear the Committee's view on this matter, and establish whether, in general, it wants to pursue the matter. It may be that if we do want to do so members will have to express an opinion through a vote, but we will do that at the appropriate stage. At this point, I am asking members whether Mr McCallister's proposal is something that we want look at, and I would like to gather individual and collective views on the two proposed amendments that are before us. I will take members' opinions, and, if it looks like there is agreement, we can pursue one or other of the amendments or reject them. Is that OK?

*Members indicated assent.*

**Ms Ní Chuilín:**

My party colleagues and I favour the second proposed amendment. Even if the powers are never used, it is better to be looking at them rather than looking for them.

**Mr McCallister:**

As a member, I support Caral's view on the second proposed amendment.

**The Chairperson:**

The second proposed amendment is about consultation, but also includes possible remedy through the County Court.

**Mr Craig:**

I have concerns about the whole concept of consultation. I think it would be better to come back to the first proposal. I have doubts about how all this will work out, and my gut feeling is that no

matter what we do here, we will probably end up revisiting the legislation in a year or two. My fear is that the concept of consultation could be read in any way. For example, site owners might drop a note around caravan owners to say that they are going to do a, b and c.

I know what is being said about the costs of the County Court: quite frankly, most caravan owners will not have the ability to go to the County Court to make challenges. I would far rather leave this matter for a sensible period of time so that we could look at the outworking and determine whether people have consulted in a meaningful way. I know that the matter will be left in the hands of DETI. Although that is a bit concerning, it will at least be in the hands of locally-elected representatives to reconsider and redress the situation and come up with more meaningful legislation on the definition of “meaningful consultation with caravan owners”. I do want to close that door. Too many bad experiences with caravan site owners have led me to that thought.

**Mr F McCann:**

As I said in closed session — and it was echoed throughout the Committee — there have been some very bad practices across the sector, especially on seasonal sites. At that stage, I thought that we were going to try to close the loopholes that allowed that to happen. As we moved on, the seasonal sector was left behind in order to push the main thrust of the Bill. If Jonathan believes that at this stage we need to include additional provisions to better protect seasonal site owners, we would look at that favourably. That is one way to do it. However, if that is not the case, people who have a disagreement with a site owner may choose the court option as the only way to challenge rather than wait two years or three years down the line. As Jonathan said, DETI’s record in bringing cases leaves a lot to be desired. Therefore, the second proposed amendment gives added protection to seasonal caravan owners and may make a site owner think twice before not listening to their points of view.

**Mr McCallister:**

My worry is that if we do not include something in the Bill now, the chances of the Assembly revisiting the matter are slim. People probably talked about this issue in this building in 1963 and said that they would come back to it. However, we are only getting to it 47 years later.

I think that it is easier to —

**Mr F McCann:**

Who is to say that any of us will be here next year?

**Mr McCallister:**

That is why I believe we have the chance to do something now.

On Jonathan's point about court action, I accept that it is difficult for individuals to take the court option. However, if people were formed into a group, that option would be much more realistic for them and would be within the grasp of ordinary people and families.

**Ms Lo:**

I agree. There is no point in waiting a few years to see how the situation develops. If we have the chance to increase protection now, it is better to do so. The Bill, at least, sets out the obligations under which site owners must operate. Hopefully, that will mean that there is better practice from now on and that people will have the means to redress any problems.

**Mrs M Bradley:**

I have considered this issue greatly, and I have been thinking about it again since last week. We have seen some horrendous problems experienced by the people who are paying to be on those sites. They need to get the protection that they require when they need it. They should not have to wait a length of time before something is dealt with. Therefore, if we can build something into the Bill now, we should do so.

**The Chairperson:**

I am detecting that nobody, whatever their perspective, thinks that the first amendment is suitable. For what it is worth, I do not think that there is any point in legislating for something that does not include enforcement; that would be a bad law. I have considered the second amendment carefully for the last day or two, and I am not convinced that there is a need for it for several reasons.

The backcloth of this has to be the fact that John's Bill is radically changing the whole way in which caravans in the seasonal sector are protected. The whole inclusion of agreements is quite progressive, and the Bill gives powers and protections that have not existed hitherto, which is why some of that horrendous activity occurred. Given those stories, I understand and support the

need for such provisions. However, I am not convinced that there is a need to do it on a collective basis. I understand that somebody may want to go to the cost of going to court to protect their individual rights. However, I am not so sure about that being done a collective basis for some of the stuff that might happen.

We have talked about all sorts of facetious reasons why somebody would want to consult. However, I take the point made by site owners that the basis on which they should consult is quite ill-defined. A site owner who wants to avoid the hassle and cost of going to court may not be able to, because a bolshie residents' association might exercise the right contained in the Bill to go to County Court, if it can afford to do so, and to stop such an action might become quite burdensome for the site owner. As it is not clear what site owners should consult on, the safest option for them would be to give 28 days' written notice every time they intend to do something. However, I think that that places a burden on them.

I also think that there is also a case for seeing how the legislation works as regards written agreements, which, I think, are sufficient protection, rather than including more provisions now. It is worthwhile seeing how it works in practice. If there is not sufficient protection, there may be a case for doing things on a more collective basis. I do not think that it is in the interests of site owners to sour relationships with customers, given the altered context and environment in which they are going to have to operate with respect to written agreements.

The bottom line for me is that it does not matter whether we support an amendment that is enforceable or one that is not; it is pointless either way, because this is about consultation. It is not about enforcing the will of the residents' association on the site owner and the site, it is about consulting. We have all had the experience of consultation and we know what it can be mean. Ultimately, even if a group of residents on a site are not consulted, it does not mean that their will prevails, even if they pursue the matter through the County Court. All they can get — and I stand corrected if I am wrong — is consultation; they cannot get enforcement of their view. Therefore, although the proposed amendment will create a convoluted process, it will not offer protection, because, to take the swimming pool example, if a site owner wants to take away a swimming pool he can still do so.

**Ms Ní Chuilín:**

Yes, but if a site owner wants a caravan owner to leave a site, that caravan owner must be given

28 days' notice.

**The Chairperson:**

That is a different matter. If someone wants to do something to an individual that is contrary to the written agreement, the Bill makes that agreement enforceable.

**Ms Ní Chuilín:**

That is one end of the argument, and you can use the swimming pool example, or whatever. Consultation is sometimes very poor, but the fundamental reason why people feel that they have been wronged is because they have not been consulted. They pay quite hefty site fees and have site owners who exercise extreme power. Such site owners will still have the ability to do that even if Bill is amended. The second proposed amendment will put more manners on them.

**The Clerk of Bills:**

The consultation would not apply to any matters of dispute between an individual and a caravan site owner. It can only be about significant changes to the operation and management of the seasonal site and changes to site fees.

**Ms Ní Chuilín:**

That is the main contention.

**Mr F McCann:**

Many people with caravans on seasonal sites pay almost the equivalent in rent as Housing Executive tenants. The protection that most would see in the Bill is that it gives people the option of going to law. If that option exists, the site owner and caravan owner might think twice about confrontation and enter into negotiation or discussion to settle a problem.

**Ms Lo:**

We live in a democracy. Surely if there are major changes in the management of facilities on the site, the site owner would be obligated to consult with the caravan owners. It is good practice to consult, and it is essential that site owners are made to consult through the Bill.

**Mrs M Bradley:**

Although we are talking about the Caravans Bill we must remember that the provisions also deal

with permanent homes. Are those properties protected by the Bill?

**The Chairperson:**

They are, but in a different section.

**Mr McCallister:**

I take the Chairperson's point that the Bill will radically change the law for site owners. The requirement to have a written contract will provide a great deal of protection for caravan owners.

On the overburdening of site owners, a threshold of 50% of the residents must be reached before a residents' association could be formed, which is the same for the residential sector. Examples from my own constituency show that having residents' associations is less burdensome, because site owners speak to a collective rather than to 200 separate caravan owners. Indeed, simple things such as getting rules and standards on storage boxes have been a nightmare for some park owners, who have had to speak to 200 or 300 individual caravan owners rather than to one collective body. Our examples also show that, rather than souring relationships, the establishment of residents' associations has actually improved relationships between site and caravan owners, as it allows both sides to gain a better understanding of the issues. It has done a lot to improve relationships on some parks. Therefore, it would add value.

It is much more difficult for a site owner to take on a group than to take on individuals; and some site owners, quite frankly, have behaved outrageously towards some of their customers. We should encourage them to consult those customers and hear what they want on their park because the customers are buying into the business. The provision can add value and can improve the relationship between the two parties.

**Mr Brady:**

I thought that the purpose of the legislation is to put a provision in place that is not there now. It seems to me that this will regulate owners. There has been talk that it will place a huge burden on them: this is a business, and there is no reason why it should not be regulated. If agreement can be reached by consensus, that is fine. However, there must be something in place to make sure that it happens. I imagine that the thrust of the Bill is to make site owners accountable. I have read about the tremendous burden that will be placed on site owners. However, if they have a business, they should run it properly. If they cannot run it properly, legislation must be in place



to make sure that they do so. I thought that that was the purpose of the Bill. If site owners had been operating properly, I presume that John would not have introduced the Bill in the first place. It seems a fairly simplistic argument.

**The Chairperson:**

Am I right in saying that, for whatever reason, nobody is too fussed on the first amendment, which does not include enforcement?

*Members indicated assent.*

**The Chairperson:**

What about the second amendment?

**The Committee Clerk:**

The amendment that the Chairperson is referring to is that the requirement to consult will be limited to communication but would include enforcement via application to the court. That is the second amendment in members' packs.

*Question proposed:*

*That the Committee recommend to the Assembly that the following amendments be made:  
Insert new clause in part 2 (after clause 8)*

*“( ) (1 ) In any seasonal agreement there shall be implied the terms set out in schedule 2; and this subsection shall have effect notwithstanding any express term of the agreement.*

*(2) If the owner fails to comply with schedule 2(2) and 2(3) the occupier may apply to the court for an order requiring the owner to consult with the occupier in accordance with schedule 2(2) and 2(3).”*

*Insert new clause in part 2*

**“Jurisdiction**

*( ) (1) The county court for the county court division in which the seasonal site is situated shall have jurisdiction –*

*(a) to determine any question arising under this Part or any seasonal agreement, and*

*(b) to entertain any proceedings brought under this Part or any such agreement;*

*and references in this Part to “the court” shall be construed accordingly.*

*(2) But where the parties have agreed in writing to submit any question arising under this Part or,*

*as the case may be, any seasonal agreement to arbitration, references in this Part to the court shall be read as references to the arbitrator.”*

*Insert new clause in part 2*

***“Power to amend implied terms***

*( ) (1) The Department of Enterprise, Trade and Investment may by order make such amendments to Schedule 2 as that Department considers appropriate.*

*(2) An order under this section may contain such incidental, supplementary, consequential, transitional or saving provisions as that Department considers appropriate.*

*(3) An order under this section may in particular –*

*(a) make provision for or in connection with the determination by the court of such questions, or the making by the court of such orders, as are specified in the order;*

*(b) make such amendments of any provision of this Part as that Department considers appropriate in consequence of any amendment made by the order to Schedule 2.*

*(4) No order may be made under this section unless the Department of Enterprise, Trade and Investment has consulted –*

*(a) such organisations as appear to it to be representative of interests substantially affected by the order; and*

*(b) such other persons as it considers appropriate.*

*(5) No order may be made under this section unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.” — [Mr McCallister.]*

*Insert new schedule after schedule 1*

***“Schedule 2***

***Qualifying caravan owners’ association***

*– (1) A caravan owners’ association is a qualifying caravan owners’ association in relation to a seasonal site if–*

*(a) it is an association representing the occupiers of caravans on that site;*

*(b) at least 50 per cent of the occupiers of the caravans on that site are members of the association;*

*(c) it is independent from the owner, who together with any agent or employee of the owner is excluded from membership;*

*(d) subject to paragraph (c), membership is open to all occupiers who own a caravan on that site and are entitled to an agreement under clause 7(1);*

*(e) it maintains a list of members which is open to public inspection together with the rules*

*and constitution of the residents' association;*

*(f) it has a chairman, secretary and treasurer who are elected by and from among the members on an annual basis at the Annual General meeting;*

*(g) with the exception of administrative decisions taken by the chairman, secretary and treasurer acting in their official capacities, decisions are taken by voting and there is only one vote for each caravan; and*

*(2) When calculating the percentage of occupiers for the purpose of sub-paragraph (1)(b), each caravan shall be taken to have only one occupier and, in the event of there being more than one occupier of a caravan, its occupier is to be taken to be the occupier whose name first appears on the agreement.*

***Owner's obligations***

*2. – (1) The owner shall consult a qualifying caravan owners' association, if there is one, about*

*(a) significant changes to the operation and management of, or improvements to, the seasonal site which affect the occupiers either directly or indirectly; and*

*(b) changes to site fees or service fees.*

*3.- For the purposes of paragraph 2, to "consult" a qualifying caravan owners' association means – (a) to give the association at least 28 days' notice in writing of the matters referred to in paragraph 2 which –*

*(i) describes the matters and how they may affect the occupiers either directly or indirectly in the long and short term; and*

*(ii) states when and where the association can make representations about the matters." — [Mr McCallister.]*

*The Committee divided: Ayes 6; Noes 4*

*AYES*

*Mrs M Bradley, Mr Brady, Ms Lo, Mr McCallister, Mr F McCann, Ms Ní Chuilín*

*NOES*

*Mr Anderson, Mr Craig, Mr Easton, Mr Hamilton*

*Question accordingly agreed to.*

*Clause 8, as amended, agreed to.*

**The Chairperson:**

We move to the final issue. The Department has submitted a proposed amendment that would remove the requirement for the Housing Executive to obtain a licence for a Travellers' caravan

site. Following last week's Committee meeting, I asked the Committee Clerk to draft a letter to Minister Poots to seek further feedback on the Minister's views on the licensing of Housing Executive caravans sites. That letter has been tabled and came from concern about the planning process.

**Mr Craig:**

Have we got a reply from the Minister on that issue? I made a point of personally speaking to him about the issue because, last week, my instinct was that when RPA was on schedule and the whole planning process was to be handed over to local government, the removal of the clause would not have been an issue in that the powers of approval would have been in the hands of councils. The Minister confirmed that that was his thought when that was put through. Therefore, I am very concerned with moving forward on this issue if the Minister's thoughts on the matter are not clear. He basically agreed with me that, given that RPA has slowed down — I will put it no stronger than that —

**Mr F McCann:**

You are very kind.

**Mr Craig:**

It has stopped, reversed, been buried; whatever way you want to look at it. *[Laughter.]*

From my conversation with the Minister, I know that he is not content with that power being removed from councils. In his view, councils have little enough power or influence over anything.

**The Chairperson:**

As a result of the convoluted system that the Assembly has, the letter must go to the Committee for the Environment. Therefore, it will be some time before the Committee gets a reply, and we are not in a position to hold up the Bill until we receive that.

I have also spoken to the Minister. Part of the reason why I thought it was worth getting formal and informal clarification is that I did not think that what was asked initially was clear and that the Minister's response did not take full cognisance of all the issues the Committee raised. The initial letter that was sent to the Minister also did not make him aware of all those issues and

ramifications.

Mr Craig is correct. When I spoke to the Minister of the Environment he expressed concerns, as Mr Craig outlined, with the removal of the licence, and I imagine that that will form part of his opinion and reply. The Committee does not have that reply, although I understand that the Minister is concerned about the removal of that power. That has now been communicated informally. We may have to wait weeks for the formal communication. To be honest, a written response will not fundamentally alter people's opinions or views on the matter. However, it is good for the record that we record the Minister's response. Jonathan has outlined that the Minister of the Environment is unsupportive of a removal of that power.

**Mr Craig:**

He is not minded to support it, given the fact that RPA is not moving forward at the moment.

**The Chairperson:**

The point that you make is correct. Previously, the context may have been radically different.

**Mr F McCann:**

If possible, will the Committee Clerk give the Committee the consequences of each of the proposed amendments?

**The Chairperson:**

Stephen Martin is with us again — we may let you go after this week, Stephen. Please outline the amendment, and I will then throw it open for members to ask questions.

**Mr Stephen Martin (Department for Social Development):**

Under the Caravans Act (Northern Ireland) 1963, caravan sites require two things: planning permission under the Planning (Northern Ireland) Order 1991, and a site licence. Section 5 of the 1963 Act clearly sets out the main purpose of the site licence, and its primary consideration is that there is proper health and safety in caravan sites including ensuring that there are proper fire exits and that caravans are properly placed, et cetera.

The Department contention is that, prior to 2003, councils had responsibility for operating sites for travellers. Under the 1963 Act, councils are exempt from site licensing requirement;

therefore, prior to 2003, traveller sites would not have required site licences.

**Ms Ní Chuilín:**

I thought that they were exempt.

**Mr Martin:**

In 2003, there was feeling that there was a need for greater sites and that the councils were not meeting the need that was there. Therefore, those functions were transferred from the councils to the Housing Executive. Health and safety issues were addressed in the transfer of functions, as the Housing Executive is duty-bound to adhere to the model conditions, which were developed by the Department of the Environment and which set out health and safety standards. In determining a site licence, councils are also bound by those model conditions under section 5 of the 1963 Act. Therefore, in essence, provision is already there for the Housing Executive to adhere to the appropriate health and safety standards, which is the main purpose of site licensing.

The transfer of functions in 2003 created an anomaly with traveller sites suddenly being required hold a site licence, when the only thing that changed was who ran the site. It seemed that this Bill could usefully address that anomaly, which was the intention in 2003, but, for some reason, was not done. It was on that basis that Minister Attwood went to Minister Poots, who supported the intention of removing the site licensing requirement at that time.

**Mr F McCann:**

We know that some councils have serious difficulties in supporting a site being placed on a property and may, therefore, deliberately delay such a placement. Are you saying that the function is better placed with the Housing Executive than the councils?

**Mr Martin:**

The function was transferred to the Housing Executive, so it has a duty to adhere to health and safety standards, which is the purpose of site licensing. Therefore, why have double? I think that the Committee received correspondence from the Human Rights Commission in which it contended that, in some cases, site licensing is being used to frustrate the Housing Executive's provision of sites.

**Mrs M Bradley:**

I have just one question. Is the Housing Executive responsible for those sites? What is the situation with areas owned by private housing bodies that Travellers occupy?

**Mr Martin:**

I know that Clanmil Housing Association owns one site in west Belfast.

**Mrs M Bradley:**

There is one in Derry, too.

**Mr Martin:**

However, when that function was transferred, the Housing Executive was allowed to provide and manage those sites. In fact, as far as I am aware, the Housing Executive manages both types of sites.

**Mrs M Bradley:**

That is fine.

**The Chairperson:**

What is the Committee's view on the amendment? Do members support it? We have given differing views in the past, so I suspect that there will not be consensus on it. I assume that that is still the case? Some members are in favour and some are against. I will put the Department's proposed amendment on site licensing to a vote, and members can express their opinion in that way.

**Ms Lo:**

Is this about removing it from councils?

**The Chairperson:**

Yes.

*Question proposed:*

*That the Committee supports the following amendments: clause 11, page 8, line 42, after "paragraph 11" insert "or 11A"*

*The following amendments were also proposed:*

*Clause 11, page 8, line 43, after “council” insert “or provided and managed by the Housing Executive”. — [Minister for Social Development.]*

***New clause***

*After clause 14 insert—*

***“PART 4A***

***LICENSING OF CARAVAN SITES***

***Exemption from licensing of sites for Irish Traveller community provided and managed by the Housing Executive***

*14A. In the Schedule to the Caravans Act (sites exempt from licensing) after paragraph 11 insert—*

***‘SITES FOR IRISH TRAVELLER COMMUNITY***

*11A. A site license shall not be required for the use as a caravan site of land provided and managed by the Northern Ireland Housing Executive under Article 28A of the Housing (Northern Ireland) Order 1981 (NI 3) (provision of caravan sites for Irish Traveller Community).’” — [Minister for Social Development.]*

*Clause 15, page 10, line 19, leave out “paragraph 11” and insert “paragraphs 11 and 11A”. — [Minister for Social Development.]*

*The Committee divided: Ayes 5; Noes 5*

***AYES***

*Mrs M Bradley, Mr Brady, Ms Lo, Mr F McCann, Ms Ní Chuíín*

***NOES***

*Mr Anderson, Mr Craig, Mr Easton, Mr Hamilton Mr McAllister*

*Question accordingly negatived.*

**Ms Lo:**

What about the Chairperson’s vote?

**The Chairperson:**

I have one vote like everyone else.



**Ms Lo:**

It is five against five, so why does it fall?

**The Chairperson:**

It does not have support. Does the Committee wish to consider any other amendments?

*Members indicated dissent.*

**The Chairperson:**

John, as the Bill's sponsor, are you content to put down the amendment on qualifying residents' association? That was your amendment initially.

**Mr McCallister:**

I am content with that, unless the Committee wishes to do so.

**The Chairperson:**

It was your amendment, so the Committee is happy for you to put it down. It was your baby, John.

*Long title agreed to.*

**The Chairperson:**

Is the Committee content to conclude the clause-by-clause scrutiny of the Caravans Bill?

*Members indicated assent.*

**The Chairperson:**

Stephen, thank you for your time. We will probably see you in a couple of weeks. I also thank John for his contribution in bringing and sponsoring the Bill and for his evidence throughout the process.