



Northern Ireland  
Assembly

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**COMMITTEE FOR  
SOCIAL DEVELOPMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Housing (Amendment) (No.2) Bill:  
Clause-by-Clause Scrutiny**

11 January 2011

**NORTHERN IRELAND ASSEMBLY**

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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  
Mr John McCallister  
Mr Fra McCann

**Witnesses:**

Mr Stephen Baird )  
Mr Alastair Campbell ) Department for Social Development  
Ms Angela Clarke )

**The Deputy Chairperson (Ms Ní Chuilín):**

I remind members that the Committee commenced formal clause-by-clause scrutiny of the Housing (Amendment) (No.2) Bill on 16 December 2010.

Officials will brief the Committee on recent departmental responses and the clauses and

proposed amendments to the Bill. With us today are Alastair Campbell, Stephen Baird and Angela Clarke from the Department for Social Development's housing division. Members have a revised copy of the clause-by-clause scrutiny table for the Bill.

The Royal Institution of Chartered Surveyors has written to comment on the Bill. Are members content to note that correspondence?

*Members indicated assent.*

**The Deputy Chairperson:**

The Department has tabled the text of the outstanding proposed amendments. Members should refer to their Housing (Amendment) (No.2) Bill folder, which has been updated with all submissions received during Committee Stage. In this session, the Committee will continue to step through the clause-by-clause table. Members will be asked to give their final views on the clauses and proposed amendments, and the Committee will divide when a consensus cannot be reached. Have members received up-to-date copies of all relevant documentation?

*Members indicated assent.*

**Clause 2 (Tenancy deposit schemes)**

**The Deputy Chairperson:**

OK. We will start the clause-by-clause scrutiny, beginning with clause 2, "Tenancy deposit schemes". Clause 2 allows the Department to make regulations to establish a tenancy deposit scheme, which will safeguard the deposits of tenants in the private-rented sector.

The Committee agreed at its previous meeting not to pursue amendments D to L. That, therefore, leaves amendments B, C and UUU for consideration. The Committee agreed informally that it supported amendments B and C, which would make the establishment of a tenancy deposit scheme a duty, not just a power, and would include a time frame for the establishment of the scheme. The Department has tabled the text of the proposed amendment, which replaces "may" with "shall" and incorporates a time frame of 18 months. That amendment is to clause 7. Are members content to defer discussion of this issue until clause 7 is agreed?

**The Committee Clerk:**

Members were concerned about the “may” and “shall” aspect and the time frame. I thought that that would be an amendment to clause 2, but the Department advises that it will be an amendment to clause 7. We could bank the issue for now, if members are content to do so, and move on to the other issues around clause 2.

**The Deputy Chairperson:**

Are members happy to do that and to move on to other issues?

*Members indicated assent.*

**The Deputy Chairperson:**

Those other issues start with amendment UUU. The Committee informally agreed, subject to further departmental advice, to support an amendment that would require landlords to repay deposits to tenants where the landlord is in breach of tenancy legislation. The Department has not tabled the text of the proposed amendment, so we need to discuss that further. Angela, will you lead on that?

**Ms Angela Clarke (Department for Social Development):**

We had hoped to have been able to provide a draft, but we have had a number of legal difficulties that we are very close to resolving. However, we have been unable to have them resolved for today. We are hopeful that we can have that done within a day or two; certainly by the end of the week. It is not a controversial clause; there have just been a few difficulties in drafting it. I appreciate that that poses difficulties for the Committee.

**The Committee Clerk:**

The Committee may want to indicate how it feels about the amendment generally. As the text is not available, the Committee may want to defer the decision on the clause entirely until it has that text in front of it.

**Mr Craig:**

That would be advisable.

**The Deputy Chairperson:**

Does the Department anticipate that the text will be with us next week?

**Ms A Clarke:**

I am hopeful of that. If we can provide it before the end of the week, we will. I hope that it will be before next week.

**The Deputy Chairperson:**

Will that amendment affect any other clauses?

**Ms A Clarke:**

No.

**The Deputy Chairperson:**

Are you sure about that?

**Ms A Clarke:**

Yes; absolutely.

**Mr F McCann:**

Are clauses 1 and 7 deferred?

**The Committee Clerk:**

It is only clause 2 that we are talking about.

**Mr F McCann:**

Sorry; clauses 2 and 7. Was everything not reliant on clause 7?

**The Committee Clerk:**

We will come to clause 7.

**The Deputy Chairperson:**

To recap: my understanding is that consideration of this part of clause 2 cannot proceed until next week when we get the text, but it will not have an impact on the rest of the items that are pertinent to clause 7.

**Mr Alastair Campbell (Department for Social Development):**

No; it is completely separate.

**The Deputy Chairperson:**

OK, so we can proceed. Is it fair to ask that that information be forwarded to the Committee Clerk as soon as possible, so that we have an opportunity to scrutinise it?

**Ms A Clarke:**

Yes; absolutely.

**The Deputy Chairperson:**

Are members happy with that?

*Members indicated assent.*

**The Deputy Chairperson:**

We are deferring the decision on clause 2, and we move on to clause 5.

***Clause 5 (Registration of landlords)***

**The Deputy Chairperson:**

Clause 5 allows the Department to make regulations to provide for the registration of private landlords. The regulations create new offences in relation to the provision of false information, failure to provide evidence of registration and the letting of houses by unregistered persons.

At its previous meeting, the Committee agreed that it would not support amendments V through to Z or BB through to HH. The Committee agreed to support the Department's technical amendment R. That, therefore, leaves amendments S, T, U, AA and a further amendment proposed by the Department.

As regards amendments S and T, the Department has tabled the wording of an amendment that will make the establishment of a landlord registration scheme a duty and not just a power. It includes a related time frame of 18 months. That amendment is also to clause 7. Are members content to defer discussion of this issue until clause 7 is agreed? It is very similar to the last piece of —

**Mr F McCann:**

There was a lot of discussion in and around clause 3 about amendment O, which is that the decent homes standard be made a legally enforceable standard for all public and private housing. We seem to have gone past that. Will that be coming up again?

**The Committee Clerk:**

I remind members that, at the meeting on 16 December, the Committee agreed a number of the Bill's clauses, including clause 3. The Committee agreed at that time to accept the Department's assurances that it is undertaking consultation with stakeholders on the development of a new fitness standard and expects to bring forward legislation in the next mandate. The Committee accepted that and agreed the clause.

**Mr F McCann:**

If my memory serves me right, I said in relation to a number of clauses that we would be coming back with amendments to different elements of the Bill. Can we check? The issue of standards was certainly one of the things that Simon and I had a lengthy debate about. I would not have accepted the present standards, regardless of what the Department is going to do, because I was arguing about coming back in the next mandate.

**The Deputy Chairperson:**

As with all legislation, Committee members have a right to bring their own amendments.

**The Committee Clerk:**

Yes. However, to be clear: the Committee, as a whole, agreed clause 3 and accepted the assurances that the Department gave. I understand that the member will probably bring forward his own amendment.

**The Deputy Chairperson:**

We will defer discussion until we reach clause 7.

We are at amendments U and AA. The Committee asked the Department to explore an alternative fines structure and a possible mechanism whereby district councils can recover court costs associated with tenancy prosecutions. The Department indicates that there are some difficulties with the proposed amendments. Again, we ask the departmental officials to brief us on those issues. We will then determine our views on the proposed amendments. We will hear the views of the officials and then take our counsel from whatever information we receive.

**Ms A Clarke:**

We have consulted with the Department of Justice on whether there is any way in which we can legislate so that court costs can be recovered. The Department of Justice has given clear advice. Currently, there is provision in the legislation for prosecutors to have costs awarded, but those costs are set. The level of those costs is very low. Those are Magistrate's Court rules. They are made by the Magistrates' Courts Rules Committee, which is currently reviewing them and is minded to carry out some consultation on them. The matter is out of our hands at the moment. There is some provision to recover costs, but it is very low: £75 for a solicitor and £75 for counsel, if it is necessary. However, the issue is being looked at through the Department of Justice.

In relation to looking at a different structure for penalties, we were very hopeful when we initially talked to the Department of Justice about the possibility of having a stepped approach to fixed penalties. However, when we got into detailed discussion with that Department, we found that it has also been looking closely at fixed penalties and is developing policy for what is still quite a new area. The Department of Justice felt that a fixed penalty in relation to landlord



registration being one fifth and working out at £500 was high as it was. Certainly, it was the highest fixed penalty in the system. The Department of Justice was not entirely happy with that. However, because this is new and because we put up a good argument, it decided to accept that £500 fixed penalty. It was very reluctant to see any kind of stepped increase on that.

Part of the rationale for that view is that fixed penalties are used as a means of getting someone to accept the responsibility and pay the liability and of moving on and avoiding court. If we increase that fixed penalty, we increase the risk of people saying that it is much too high, asking why they should pay it and deciding to take their day in court. The evidence from the courts is that the fines given there are much lower. Therefore, to increase the fixed penalty could be self-defeating. That was the view of the Department of Justice, and it was very unhappy and reluctant to see anything like that happening.

**The Deputy Chairperson:**

What are members' views?

**Mr F McCann:**

On the back of that evidence, what is the sense in going through with things like that? We are trying to legislate to ensure that the private-rented sector abides by whatever regulations are laid out. Having fixed penalties is one way to do that. We are being told that the magistrates will review it, but we do not know when that review will be done or at what level the fine will be afterwards. At the end of the day, they may still just give a very small fixed penalty fine for the private-rented sector.

**The Deputy Chairperson:**

Has a date been given for that review? Has it started?

**Ms A Clarke:**

Do you mean the review in relation to court costs?

**The Deputy Chairperson:**

Yes.

**Ms A Clarke:**

The Department of Justice has been unable to give me a fixed timescale. It is looking at it.

In relation to fixed penalty levels, we must also bear in mind that, as the Department of Justice argues, it is all about proportionality. Is the fixed penalty proportionate to the crime of failure to register? The Department of Justice's view is that £500 is in line with that. It is the highest fixed penalty in the whole system at the moment.

**Mr Craig:**

I understand where the Department of Justice is coming from on that one. However, I share the cynicism that, if someone just cannot be bothered to register, he or she gets off with a £500 fine. Is that a one-off fine or will it be renewed after a period and imposed on the landlord again and again until he or she registers? If that is not the case, surely it will be completely ineffective?

**Ms A Clarke:**

We had similar concerns. The fixed penalty can be applied once if the landlord pays it. If that person remains unregistered, the council can give them another fixed penalty. Again, the Department of Justice would not be happy for more than two fixed penalties to be applied within a year. Its view is that the landlord should be taken to court. The Department will prepare guidance for councils to advise them on how to deal with landlords who persistently fail to register.

We have proposed another amendment. That provision will allow a council to take to the civil court a landlord who is given a fixed penalty and pays it but remains unregistered. We can require that the civil court gives an order to that landlord to register. We could not do that through the criminal court because we are not allowed to fetter judges or magistrates.

**The Deputy Chairperson:**

We need to determine whether there will be ministerial intervention or a statement with regard to when the review will take place and what its outcomes and terms of reference will be.

**Ms A Clarke:**

I am advised by the Department of Justice that the Magistrates' Courts Rules Committee is looking at court costs. Apparently, the Department of Justice does not make those rules; the magistrates' committee makes them. It is in control on that issue.

**Mr Brady:**

The success of any legislation depends on how it is enforced. If this legislation is enforced properly and landlords are made aware that it will be enforced, that should, by definition, cut back on the number of landlords who do not register or comply. I have never been a councillor — thankfully or, perhaps, not thankfully. I am sure that many colleagues could comment on that. However, I cannot imagine that councils would necessarily want to spend time, energy and even money in pursuit of errant landlords, which is really what that amounts to. If the legislation is properly enforced initially and people are made aware that it will be enforced and that there could be two fixed penalties, hopefully, that will cut out that necessity for councils. I cannot imagine that they will necessarily want to pursue those cases.

**Mr Craig:**

They will not want to do so through the civil courts, especially.

**Mr Brady:**

That can be quite a long, costly and drawn-out process.

**The Deputy Chairperson:**

I suspect that that is similar to the point that you were going to make, Sydney.

**Mr S Anderson:**

That is my point exactly. We are waiting for the Department of Justice to come back about the recovery of costs through the criminal court. Obviously, there will be costs through the civil court.

**Mr Brady:**

Perhaps, I should have been a councillor. *[Laughter.]*

**Mr F McCann:**

You are too old now.

**Mr S Anderson:**

You were good to pick up on the fact that councils do not like to spend ratepayers' money on such matters. I should perhaps declare an interest as a member of Craigavon Borough Council.

**The Deputy Chairperson:**

I suspected that that would have been your argument.

**Mr S Anderson:**

Another point is that that should be tied down before it even reaches the point at which a case is taken to court.

**Ms A Clarke:**

From our work with council officials, we feel that fixed penalties are the way to go for matters such as non-registration and that court should be avoided if possible. There are other means by which to punish landlords who do not comply with other aspects of the law. The fixed penalty simply applies to registration. Therefore, we believe that fixed penalties are the best way to go. Furthermore, councils felt that £500 was actually quite an effective deterrent. As it is new, we do not know that. However, the fact is that to apply a £500 fine when someone is found not to have registered — the register will be publicly accessible — is quite hefty. Of course, a further fine can be applied, although we are restricted in the number of fines that can be applied.

We feel that that is an effective way forward. As with any new scheme, we must have arrangements in place as soon as it gets off the ground in order to monitor its effectiveness. We work day and daily with councils. We review all the information that they collect. We will do exactly the same with regard to the new scheme. If it is seen not to be effective, we will need to move quickly to make it more robust if necessary. A lot of work will be done in advance to ensure that landlords are aware of the scheme. We will want to work with councils to ensure that they act swiftly when they discover that landlords are not registered, so that it is not seen to be an

easy touch.

**The Deputy Chairperson:**

I think that it would be fair to assume that the Committee is not content. First, it has not received any assurances from the Minister as such, not even vis-à-vis the Department. You are saying that the matter is down to the magistrates' committee.

**Ms A Clarke:**

I clarify that the magistrates' committee relates to whether we can move the boundaries in relation to the recovery of court costs. One of the issues that the Committee asked us to look at was whether we could do anything to legislate that councils can recover some of the court costs if they take a case to court. The advice, and the provision that is in law already, is that councils can recover some of those costs, not an awful lot and not the full costs. Right across government, people are saying that it is very expensive to bring a case to court and that there must be a better way of recovering costs. That is why the issue is being looked at by the magistrates' committee.

**Mr Craig:**

I share our colleagues' fear that councils will not go down the civil court route. I could nearly predict that now, given the costs and implications of something going wrong and councils losing their costs. Is the Department of Justice being very clear that this is the largest fixed penalty that we can introduce? Is it adamant that it will not increase the penalty to £1,000?

**Ms A Clarke:**

The Department of Justice's argument is that most people will not pay a fixed penalty of £1,000 and will choose to go to court instead. If they go to court, the odds are that they will get off with a £50 or £60 fine. Therefore, it is cheaper, and the bulk of the costs are paid out of the public purse. There is a balance to be struck between introducing a fixed penalty that people will pay and that is effective and people not paying the fixed penalty and letting the public carry the cost. It is very unlikely that anyone will pay £1,000. People will choose instead to have their day in court.

**Mr Craig:**

What is the follow on? What happens if someone refuses to pay the £500 fixed penalty?

**Ms A Clarke:**

If someone takes the fixed penalty and then does not pay it, that person has to be taken to court for non-payment of a court fine. The Enforcement of Judgements Office gets involved in that.

**The Deputy Chairperson:**

Is that a civil court rather than a Magistrate's Court?

**Ms A Clarke:**

The non-payment of a court fine is handled through the criminal court.

**Mr Craig:**

Who bears the cost of that?

**Ms A Clarke:**

I imagine that the council will bear that cost.

**Mr Craig:**

It is a vicious circle.

**Mr F McCann:**

The Committee will know that this is one of the issues that I have been running at. We are opting for a light-touch registration over and above a registration scheme for all landlords. For me, a £500 fixed penalty fine is not enough. It makes a nonsense of the whole scheme, and it is in stark contrast to amendment SSS, which states that:

“The Department proposes to amend the Bill to increase the maximum fine for failing to register a HMO to £20,000.”

As I have said before, I do not see any real difference across the whole private-rented sector. I would like to see a fixed penalty in the order of £5,000 for landlords who refuse to register. That will force landlords in the private-rented sector to register, because they will know that they will

face a heavy fine if they do not.

**Ms A Clarke:**

Someone could decide not to pay a £5,000 fixed penalty because it is much too high and choose to go to court instead. All the evidence is that maximum fines are rarely, if ever, applied.

**Mr F McCann:**

Yes, but it could be a minimum fine. If we legislate, do magistrates have to abide by what is laid out in law?

**Ms A Clarke:**

It is very difficult to get even minimum fines. We are not allowed to fetter magistrate or court decisions. We tried for minimum fines previously but did not get anywhere with those either.

**The Deputy Chairperson:**

Fra, we could elongate this argument, but we need to come to a decision as a Committee. We need to establish whether the Committee is content to accept ministerial assurances of a review instead of the proposed amendments. Given the way that the conversation has gone, the Committee does not seem to be content with that. The other aspect is that, unfettered or otherwise, there is still the option of writing to the magistrates' committee to express this Committee's views. Furthermore, the Committee should have the facility to table its own amendment to the clause. From the Department's point of view, is there any legal reason why the Committee cannot do that?

**Mr A Campbell:**

There is a big difficulty around fines. Angela mentioned the fact that we cannot set a minimum fine. A fixed penalty notice is intended to get around that slightly because, in practice, magistrates tend not to award less than the amount of the fixed penalty notice. If we raise the amount of the fixed penalty notice, magistrates are well within their rights to say that they do not think that it is proportionate and to award a smaller fine. If they do think that the agreed amount of £500 is proportionate, that will not definitely act as a minimum but will be likely to, in practice, be a minimum for the fines. If we take that away, there will be no such minimum in

practice.

**The Deputy Chairperson:**

So, it is arbitrary. One person could get a £50 fine, and another could get a different fine.

**Mr A Campbell:**

It may also be worth saying that the council keeps the £500 from the fixed penalty notice. Therefore, the fixed penalty notice puts funds into the council. That could take away a bit from the argument about the lack of costs. It will put money in councils' pockets.

**Ms A Clarke:**

We have been doing some work to determine the average fines from Magistrate's Courts. In 2006, the average fine was £172. That is the highest in the past four or five years.

**Mr S Anderson:**

The sole purpose is to encourage landlords to register. If someone goes to court and is fined, can that person walk away, pay the fine and still not register?

**Ms A Clarke:**

That is why we put the other provision in. We were concerned that landlords may still decide to remain unregistered. They can be subject to another fixed penalty, which would probably mean £1,000 in total.

**Mr S Anderson:**

Can the Bill do anything to encourage or ask the Magistrate's Court to issue a fine — if it issues a small fine — on the condition that the person registers at that time? Otherwise, that person will take the slap of a bigger fine. If they walk away with a small fine, they will keep doing that.

**Mr F McCann:**

They already do that in respect of HMOs.



**Mr S Anderson:**

Yes. Can we do anything to encourage what I suggest? Do you know where I am coming from?

**Ms A Clarke:**

Absolutely. That was exactly the line that we took. We said that, whenever they go to court, the fine should be a certain amount and they should be required to register. However, we were not able to do that.

**Mr S Anderson:**

Providing they register.

**Ms A Clarke:**

Yes; we said that they must be required to register within a certain period. However, we were not allowed to do that because it fetters the judge or the magistrate. That is why we had to develop another approach whereby a council can take a person to a civil court and the magistrate can give an order that that person must register. If they do not register in that instance, they are in contempt of court. We are trying absolutely everything.

The scheme that we are trying to put in place is fairly straightforward and does not involve large fees. We are trying to minimise the reasons why a landlord would not register. This is only the first stage in the regulation of private landlords. The next stage is rent penalties. We have talked about that. We want to move to develop legislation through which we can issue rent penalty notices to stop landlords who consistently do not comply with the law being able to lift any rent. Ultimately, that will be the most effective way. That is the next thing that we need to do in a staged process. The scheme is about trying to get landlords registered in the first place. It is important to emphasise that it is only the first stage.

**The Deputy Chairperson:**

I will invite the Committee Clerk to give a view of where we are at. We seem to be a bit stuck on this issue. As you can gather, members are not content. At the same time, we are very much constrained because magistrates need to act with independence. However, the way in which they have acted has not particularly made people content. It is almost as though we have been handed

a fait accompli. We need to get some advice on how to proceed.

**The Committee Clerk:**

I have been having a brief chat with the Bill Clerk, and there may be difficulties. I understand that members want a minimum fine in place in order to make sure that, where landlords fail to register or where they do things that they should not do, they do not walk away with a fine of £50 or £172. Members want an actual deterrent. I will seek advice on that, but there may be difficulties in fettering the discretion of the courts and setting a minimum fine. I will explore that, and, if it can be done, we will come back with an amendment accordingly. It seems that members are interested in doing that, but I have been advised that it might be very difficult.

**The Deputy Chairperson:**

We need to make a decision to put this off until we get advice about whether we can do that.

**Mr F McCann:**

My point goes back to the discussion about HMOs and increasing the fine for non-registration to £20,000. Even if we were to do that, would magistrates still ignore it and apply the minimum fine?

**Mr Craig:**

Yes.

**Ms A Clarke:**

We have evidence that maximum fines are rarely applied.

**The Deputy Chairperson:**

So, the legislative process sets best standards, but magistrates can really do what they want?

**Ms A Clarke:**

I suppose that it depends on the case that is made.

**The Deputy Chairperson:**

OK. We need to seek legal advice.

**Mr F McCann:**

From magistrates? *[Laughter.]*

**The Deputy Chairperson:**

Striking off Fra's last comment, we need to agree to get legal advice before we proceed.

**Mr Brady:**

On a technical point, if a magistrate is a landlord, do they have to declare an interest?

**The Deputy Chairperson:**

They do.

**Ms A Clarke:**

I imagine so.

**Mr Brady:**

That might seem to be a simplistic question, but I am sure that quite a lot of magistrates can afford to be landlords. That is just a personal observation.

**The Deputy Chairperson:**

OK. We need to move on.

**The Committee Clerk:**

Before we do so, in addition to seeking legal advice and seeking information on a possible amendment, does the Committee want the Clerk to write to the Department to see if it will give an assurance that the fines and penalty structure will be subject to a review in a couple of years' time? Is the Committee interested in seeing how that works out, regardless of whether we get an amendment through?

*Members indicated assent.*

**Ms A Clarke:**

We have said that we want to review other areas from day one, and, within two years of operation, we want to have a proper review of the whole system. Therefore, that is very much in keeping with our own desire.

**The Deputy Chairperson:**

It would be advisable if the Minister could set that out at Consideration Stage, because we need to have it put on the record that the issue was raised. We need to have it on the record that it goes beyond someone's intention that that will be pursued. In the meantime, we will get legal advice and take it from there. Is that fair enough?

Are we happy to proceed with the next bit of business, which is that the Department has tabled an amendment that will allow the courts to require unregistered landlords to register within 28 days and will allow councils to apply to the civil court? Do the departmental officials have any further comment on that amendment?

**Ms A Clarke:**

The intention was to try to close as many doors as possible to ensure that we force landlords who did not register to do so.

**The Deputy Chairperson:**

Notwithstanding the comments regarding the concern about ratepayers' money being used should that be pursued, it is fair to say that that should be taken on board. Are there any other views from members regarding this amendment?

The amendment states:

“Clause 5, page 4, line 42, at end insert—

‘(7) If on an application made to it by a district council, the county court is satisfied that—

(a) a person has been convicted of an offence under subsection (4)(b), and

(b) that person is continuing after that conviction to contravene subsection (4)(b),

the court may make an order requiring that person to register under this Article within such period (not being less than 28

days from the date of the order) as the court may specify.”

It may go back to the point that Sydney and Fra raised about what happens if the fixed penalty kicks in and a person still does not register. Are you content that this would kick in?

**Ms A Clarke:**

This would be after a fixed penalty. Even if a landlord had not paid the fixed penalty —

**The Deputy Chairperson:**

This would still stand.

**Ms A Clarke:**

Yes, it would.

**The Deputy Chairperson:**

Are there any views from members, or are we happy to proceed with the amendment?

**Mr S Anderson:**

It goes back to “may” and “shall” again.

**The Deputy Chairperson:**

Oh, Sydney, please. *[Laughter.]*

**Mr F McCann:**

In relation to clause 5, I take it that —

**The Deputy Chairperson:**

We do not need “shall”?

**The Bill Clerk:**

No, you do not.

**The Deputy Chairperson:**

Sorry. I am just getting assurance that we do not, on this occasion, need “shall”. “May” makes it law, which becomes “shall” at the end, in essence.

**The Bill Clerk:**

It means what you think it does.

**Mr F McCann:**

Although there are penalties, in many ways, this probably goes to the crux of registration. We wished to put down several amendments in relation to that. I can be guided and advised on whether or not those amendments are proper. I do not know whether to do that now. One amendment that we wish to put down is that the Department shall make regulations for the mandatory registration of the private-rented sector to be completed within one year of the legislation coming in.

**The Committee Clerk:**

The way in which the Department is responding to the Committee’s suggestion that there be a timescale is through an amendment to clause 7. Its amendment is for an 18-month timescale from Royal Assent. That amendment relates to the “may” or “shall” wording and the timescale.

**The Deputy Chairperson:**

That relates to clause 7.

**Mr F McCann:**

In going through this, I see that most of it relates to clause 7.

**The Deputy Chairperson:**

Yes. This amendment is about adding an insert at the end of clause 5 to amend the clause as it stands. You “may” want to come in — I am sure that Fra “shall” come in — on the amendments to clause 7. If Fra is happy to proceed to that end, and if there are no other views, we will move on.

Are members happy to agree the wording of the amendment, which I read out, to clause 5?

*Members indicated assent.*

**The Committee Clerk:**

As we have some issues to do with fines, we cannot agree clause 5.

**The Deputy Chairperson:**

That is exactly right. As we have issues with clause 5, we cannot agree it in its entirety; we agree only the amendment as it stands.

***Clause 6 (Fixed penalty for certain offences)***

**The Deputy Chairperson:**

Clause 6 would allow landlords who have breached registration regulations or the tenancy deposit scheme to avoid prosecution by paying a fixed penalty. As members will recall, at its previous meeting, the Committee agreed that it did not want to pursue amendments V to Z, nor would it support amendments JJ and LL. That, therefore, leaves amendments II and KK.

Previously, the Committee informally agreed that it would defer consideration of changes to the level of fixed penalties associated with tenancy offences pending a detailed response from the Department on the issue.

**The Committee Clerk:**

Sorry to interrupt, Deputy Chairperson, but, given the previous discussion, I think that we will have to park clause 6 as well.

**The Deputy Chairperson:**

We will park clause 6 pending legal advice, because it directly relates to a previous discussion and there is no point going through it all again. Do members agree to defer a decision on clause 6 on the basis of any additional legal advice?

*Members indicated assent.*

***Clause 7 (Regulations)***

**The Deputy Chairperson:**

As previously indicated, the Department has tabled an amendment to clause 7 that would make the establishment of a tenant deposit scheme and a landlord registration scheme a duty and not just a power — it replaces “may” with “shall”. The amendment also adds a timescale of 18 months after Royal Assent for the regulations relating to the deposit and registration scheme to be laid before the Assembly.

I invite members to comment on the amendment.

**Mr F McCann:**

I want to ask the Department, why 18 months?

**Ms A Clarke:**

It is “not later than 18 months”. That timescale is to make sure that we have sufficient time in which to develop the scheme, get a provider and make sure that the scheme is sound and workable. We do not want to be associated with a scheme that is not capable or that collapses when we start to register landlords. The 18-month timescale is to make absolutely sure that the scheme is robust. The timescale is within 18 months. However, we hope that it would happen long before that.

**Mr F McCann:**

John will perhaps come in on this point. We had the same argument about whether it should be six months, a year or 18 months when we dealt with the Caravans Bill, and, at that stage, the Department recommended that it should be a year rather than 18 months.

**The Deputy Chairperson:**

Is the Department saying that it should be no more than 18 months?

**Ms A Clarke:**

Yes. Draft regulations must be laid not later than 18 months after Royal Assent.



**Mr F McCann:**

They could be seen to be similar. I want to propose a couple of amendments to the clause. However, if other members —

**The Deputy Chairperson:**

I want to take the views of other members before we go through Fra's suggested amendments. We also need to look at the tabled amendment to clause 7. I am opening this up for other members to comment.

**The Committee Clerk:**

As the Deputy Chairperson rightly said, we need to look at the tabled amendment that begins:

“Clause 7, page 6, line 13, at end insert—

‘(4) The Department must lay before the Assembly—’.

As the Deputy Chairperson indicated, the amendment refers to the landlord registration scheme and the tenant deposit scheme. It changes the “may” to “must” and sets a timescale of not more than 18 months. The Committee needs to decide whether it is content with the wording of that amendment.

**The Deputy Chairperson:**

I will read out the wording of the amendment before I seek agreement from the Committee.

“Clause 7, page 6, line 13, at end insert—

‘(4) The Department must lay before the Assembly—

(a) a draft of regulations under Article 5A, and

(b) a draft of regulations under Article 65A,

not later than 18 months after the date on which the Housing (Amendment) Act (Northern Ireland) 2011 receives Royal Assent.’”

Are members content with the wording of that amendment? Are members, therefore, content with clause 7 as amended?

**The Committee Clerk:**

Does the member have a proposed amendment to clause 7?

**Mr F McCann:**

It relates to the timescale, which I had initially wanted to amend to six months. However, I am willing to go with it being done within 12 months of the legislation becoming law.

**The Committee Clerk:**

Sorry, are you content with 18 months?

**Mr F McCann:**

No. I want it lowered to 12 months.

**The Deputy Chairperson:**

We need to either agree to or divide on this amendment. If there is a division, —

**Mr Craig:**

Before we think of going to a division, I want to know whether there is any reason why it cannot be 12 months.

**Ms A Clarke:**

We are devising a completely new registration scheme for Northern Ireland, and we need to find a provider. When we bring forward the regulations, we need to be in a position to implement the scheme. Notoriously, IT systems and databases pose problems. We want to ensure that, when we go forward with this, we have a scheme that is robust. The timescale is to give us enough time to develop it properly. The tenancy deposit scheme will probably be less of a problem, because we hope to be able to use schemes that are already in operation. The timescale is “not later than 18 months” because we expect it to happen sooner than that. However, we just want to ensure that we can actually meet that timescale.

**Mr F McCann:**

Are you convinced that an 18-month timescale is required? I am thinking back to the last debate

that we had.

**The Deputy Chairperson:**

It says “not later than 18 months”.

**Mr F McCann:**

It was less than 12 months in the Caravans Bill.

**Ms A Clarke:**

To be fair, the Caravans Bill was doing something very different from what this is doing. We are devising a registration scheme, which is something completely new for Northern Ireland, and we have to have a system that supports that. We have quite a number of private landlords — we are not sure of the exact number — and quite a lot of work will be involved in setting up a scheme that allows all those landlords to be registered and provides the level of information that we will need to collect the fees. It is just to be absolutely sure. If we rush in something that collapses and has no credibility, we will all suffer.

**Mr Brady:**

I want to ask a question on the data available. Some £90 million of housing benefit is paid every year to private landlords. Is there no way of allying the two?

**Ms A Clarke:**

To date, we have not been able to do that. However, there is a provision in the Bill to do so. Once it becomes law, we can start to match information from housing benefit and also from rates. That will take a bit of time, but we will do that.

**Mr F McCann:**

Based on what you have said, I accept the 18 months.

**The Deputy Chairperson:**

It cannot go beyond 18 months, and the preference is that it is done sooner rather than later.

I read out the Department's tabled amendment. Do members agree to that amendment?

*Members indicated assent.*

*Question, That the Committee is content with the clause, subject to the Department's proposed amendment, put and agreed to.*

*Clause 7, subject to the Department's proposed amendment, agreed to.*

***Clause 9 (Withholding of consent to mutual exchange of secure tenancies)***

**The Deputy Chairperson:**

Clause 9 deals with the withholding of consent to mutual exchange of secure tenancies.

**Mr F McCann:**

When we started this process this morning, a lot of issues related to clause 7. One was the mandatory registration. I take it that we are moving beyond that now.

**The Committee Clerk:**

Now that we have agreed clause 7, we have agreed that the wording of the Bill be changed so that the Department must bring forward regulations; it has a duty, not just a power, to have landlord registration and to produce a tenant deposit scheme; and those actions must be completed within 18 months.

**Mr F McCann:**

We had debates about who should control the tenant deposit scheme.

**The Committee Clerk:**

When we considered the issue on 16 December, it was agreed that that was going to be the subject of consultation and regulations from the Department. The Department indicated that the councils would enforce and the Department would monitor. The word regulation was not used. The Committee accepted that on 16 December.

**Mr F McCann:**

Are we saying that deposits should be paid to councils or into a separate scheme?

**The Deputy Chairperson:**

It was a third party, was it not?

**The Committee Clerk:**

The Committee accepted the Department's assurance that, again, that would be the subject of regulations. If I remember correctly, there would be an option of a custodial scheme or an insurance scheme, and the third party had not been identified. The Committee accepted that.

**The Deputy Chairperson:**

But provision for it should be made.

**Mr F McCann:**

Will we have any say in what it will be?

**The Committee Clerk:**

I anticipate that the regulations will be subject to Assembly scrutiny.

**Mr A Campbell:**

Yes, to affirmative resolution.

**The Deputy Chairperson:**

The Order will be made, and the regulations will be brought forward on the basis that that is made for the third party.

**Mr A Campbell:**

The regulations will contain the detail, and they will be debated by the Assembly.

**The Deputy Chairperson:**

So, members will still have the opportunity —

**Ms A Clarke:**

Absolutely.

**Mr F McCann:**

Since we are asking the councils to enforce the scheme, could we also say that deposits can be paid into councils?

**Ms A Clarke:**

Do you mean tenancy deposits?

**Mr F McCann:**

Yes.

**Ms A Clarke:**

The principle is that we will have two schemes — the custodial and insurance-based schemes. The insurance-based scheme will require an insurance-based company to manage it, because it is based on insurance.

**The Deputy Chairperson:**

In that case, it is not the council.

**Ms A Clarke:**

That is not a council role.

**Mr F McCann:**

Councils do not fit that role.

**Ms A Clarke:**

It would get them into all kinds of areas that they would not be covered for. A custodial-based scheme is another option. There is a possibility that the provider that, backed by lots of investment, runs the scheme in England might put up its hand and say that it would like to deliver

this. A fair degree of financial competence, expertise and money is required to back it.

We want to devise the specifications in which we set out what we want and what providers will have to demonstrate to us, because we have to watch the money situation. It will be open to people to say whether they can meet our requirements.

**The Deputy Chairperson:**

Technically, if councils feel that they fit the criteria, there is nothing to prevent them applying to provide the custodial-based scheme.

**Ms A Clarke:**

If they want to develop the expertise, they can apply. There will be costs. We would not be ruling anybody out.

**The Deputy Chairperson:**

So, you are setting down criteria for people under the third-party arrangements, and if councils feel that they meet the criteria, they will be at liberty to apply.

**Ms A Clarke:**

To date, councils have been clear that, although they would be responsible for enforcing the scheme, they do not want to get involved in the money situation.

**Mr F McCann:**

There obviously needs to be some type of mediation between the landlord and the tenant.

**Ms A Clarke:**

Yes. Each of those schemes will have to have its own independent arbitration service, as is currently the case in England, where it is part and parcel of the scheme.

**Mr F McCann:**

Who provides that?

**Ms A Clarke:**

The schemes provide that independent arbitration at no cost.

**The Deputy Chairperson:**

OK? We will go through the rest of the amendments. Members should indicate when they have any queries.

Clause 9 inserts a new ground for social landlords to withhold consent to the exchange of tenancies. The Committee asked the Department to consider amendments that might allow the use of a wide range of non-antisocial behaviour information to be used in decision-making. The Committee accepted departmental suggestions that the Bill is to be amended to allow convictions for offences relating to the use of a home for immoral or illegal purposes to be considered in the evaluation of requests for the mutual exchange of social secure tenancies. The Department has tabled an amendment to clause 9 that sets that out.

That amendment is included in the tabled items. We need members to comment on that; perhaps the Department should comment on it first.

**The Committee Clerk:**

As members can see, the amendment reads:

“Clause 9, page 7, line 38, at end insert—

*‘Ground 2B’.*”

Members should note the square brackets at the end:

“(b) an indictable offence [committed in, or in the locality of, that dwelling-house.]’.”

If the words in the square brackets are included, social landlords may consider only indictable offences committed in or in the locality of the social home. If the words in the square brackets are excluded, social landlords will be able to consider indictable offences regardless of where they were committed when giving consent to an exchange of tenancy. The Department may wish to comment on that, but members can decide today which of those options they would like to adopt. If I understand it correctly, members can choose to include either indictable offences committed in the vicinity of the social home or any serious indictable offence. I am sure that members can think of examples of those.



**The Deputy Chairperson:**

We have to consider the Department's suggested amendment and the contents of the square brackets. Concerns were raised, including the point that the Committee Clerk made, that it is not just about what happens in or in the vicinity of a dwelling; it is about convictions that people carry when they are trying to secure a tenancy. Is that a correct understanding of the issue? Could the departmental officials advise us on that? You are well used to some of the concerns that members have raised on previous occasions.

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

The Committee Clerk has given a fair summary of what the proposal is about. There are two elements to it. The first deals with convictions for offences involving the use of a dwelling-house for immoral or illegal purposes. Most of those would involve fairly low-level antisocial behaviours. The second element deals with indictable offences, which are of a much more serious nature. There is the option of looking only at indictable offences that have been committed within the locality of the dwelling-house. In other words, in cases where there is some kind of immediate concern to neighbours. On the other hand, any indictable offence committed anywhere in Northern Ireland could be considered, which would reflect on the character of the individual concerned rather than his conduct as a neighbour. We would appreciate the Committee's opinion on which option to take.

**The Deputy Chairperson:**

I assume that you do not consider the use of houses for illegal purposes as an example of low-level antisocial behaviour.

**Mr Baird:**

Sometimes, there can be fairly low-level antisocial behaviour in such properties. There is such a thing in law as a disorderly house. In extreme conditions, that could be a brothel, but it could simply be a house that people are coming and going from at all hours of the night and its presence is causing a nuisance or is damaging the morals of the area.

**Mr Craig:**

I want some clarification on what is meant by an “indictable offence”. More importantly, we are getting into funny territory. For example, if someone from Londonderry who lives in rented accommodation in Belfast was convicted of an “indictable offence” in their early teens, does that mean that you have the right to throw them out of the property because of something that they did when they were a teenager?

**Mr Baird:**

It may not be desirable to do that. This is not a completely novel concept. The wording is based on the existing grounds for the possession of a secure tenancy, which means that landlords already have the capacity to evict somebody for having committed an indictable offence. At the end of the day, whether it is appropriate to do that is a judgement call for landlords.

**The Deputy Chairperson:**

That is usually not done retrospectively.

**Mr Baird:**

The Department has issued guidance to the Housing Executive explaining how it feels the particular provision should be operated when it comes to grounds for possession. The offence really has to be something that affects the tenant’s suitability to continue living in the area. In other words, if it is an offence that makes the person unacceptable to his neighbours, there may well be grounds for possession. On the other hand, the guidance makes it very clear that if somebody committed an offence that is not relevant to his conduct as a tenant a long time ago and has mended his ways, there would be no grounds for possession.

So, we see this provision being operated in the same way and will probably want to issue similar guidance for it.

**Mr Brady:**

With regard to the indictable offence, are you saying that the person involved has to have been indicted for that offence? It seems to me that, although the majority of antisocial behaviour may be indictable, the perpetrators have not been indicted.

**Mr Baird:**

An indictable offence is technically any offence that can be tried by jury. It simply means a more serious type of criminal offence.

**Mr Brady:**

For people living in Housing Executive houses, for example, a lot of the antisocial behaviour can be subtle. It is not immediately obvious, and the PSNI might not be involved. It would be very useful for us to have the guidance.

**Mr Baird:**

Sure.

**The Deputy Chairperson:**

The provision needs to be based on cases for indictable offences going through courts and having judgements made on them.

**Mr Brady:**

The point that I am making is that a lot of people would argue that for a lot of antisocial behaviour, such as that caused by drinking dens, the PSNI does not want to come out. I know of an episode over Christmas concerning a house that is used as a drinking den; people were kicking in the door at 4.00 am and the neighbours were complaining. That is the type of thing that I am talking about. The people involved could have been indicted if charged for disorderly behaviour, but that was never followed through.

**Mr Craig:**

It is important that we see the guidance on how this would be implemented, but I am fairly content with the provision. I would not be content with the wording in the brackets being added, because criminals are not stupid. If they know that they can get away with something, all they would have to do is to move away from the locality of their house. If they rent in Belfast, they could commit a crime in, say, Lurgan, where it would not be an issue. However, it could be a very serious issue. Therefore, it would be sensible to leave it as “an indictable offence”. For our

own contentment, obtaining a copy of how this would be implemented would be useful.

**The Deputy Chairperson:**

It would delay the legislation, but members do want to have a look at those guidelines.

**Mr F McCann:**

There is a happy medium to be achieved in dealing with antisocial activity and impacting directly on people's rights. I am not saying that members have not read it, but I was amazed when I went through the guidance — the antisocial behaviour booklet — to the Housing Executive. It is fairly strong. It lacks only teeth to deal with some such activities. So, if we get a copy of the Housing Executive's guidelines on dealing with antisocial activity, along with a copy of the guidance that we want, members will be surprised by the powers that it has but does not follow through with.

**Mrs M Bradley:**

I agree with what Jonathan said about the brackets. So many people move from one area to another —

**The Deputy Chairperson:**

They do it deliberately.

**Mrs M Bradley:**

And, sometimes, the people in the area where they move from have already sent the message ahead of them. I would like to see the legislation being solid and the issue being dealt with properly, so I have a problem with the bracketed text.

**The Deputy Chairperson:**

Are members content to defer agreement on the amendment until we see the guidance? Or, are members happy enough to agree it but would like to see that guidance?

**Mr Craig:**

I am happy enough to agree it. To content ourselves, I would just like us to see the guidelines on how this would be implemented.

**Mr F McCann:**

If we are to see guidance on it, our decisions may depend on what is in that guidance.

**The Deputy Chairperson:**

OK. Is it our position that members agree it as it is or on the basis that we see the guidance?

**Mr Brady:**

I make the point that “locality” is a nebulous thing. How far away does someone have to be? Is it the same street, two streets away or three streets away?

**The Deputy Chairperson:**

The consensus seems to be that we opt to take out the wording in brackets, leaving it as “an indictable offence”. However, before I read out the proposed amendment, we need to make a decision on whether we agree it today. Is there anything in the guidance that will go against the amendment’s intent?

**Mr Baird:**

I would not have thought so, Deputy Chairperson.

**Mr F McCann:**

Deputy Chairperson, I would prefer to see the guidance before making a decision on the amendment.

**The Committee Clerk:**

We have to come back to the scrutiny of the Bill anyway to consider clause 2.

**The Deputy Chairperson:**

We will include a request for the guidance in the list of things that we need to receive advice on before we can reach agreement. Are members content with that?

*Members indicated assent.*

**Mr Craig:**

I am happy enough with that approach. We have deferred a number of things on which we are seeking further evidence, so we can park this as well.

**The Deputy Chairperson:**

Mary, we have agreed to defer a couple of items on the basis that we need additional advice. That is in relation to clauses 2, 5 and, now, 9.

**Mrs M Bradley:**

When will we get that?

**The Deputy Chairperson:**

We hope to have it by next week.

**Mrs M Bradley:**

We are never going to get through the Bill if we keep — it is unfortunate that we have to —

**The Deputy Chairperson:**

Yes, but it is important that we get good rather than iffy legislation.

**Mrs M Bradley:**

It is indeed, but we need to get it soon.

**The Deputy Chairperson:**

We will have that information next week.

**Mr F McCann:**

The whole question of ASBOs is relevant to a lot of the stuff here. ASBOs seem, to all intents and purposes, to be on their way out in other jurisdictions. I take it that that would probably be *[Inaudible.]*.

**Mr Baird:**

ASBOs are a matter for the Department of Justice, rather than the Department for Social Development. We are, basically, in its hands.

**The Deputy Chairperson:**

In this case, therefore, the Department reacts to what another Department does in relation to law, rather than having its own policy and legislation.

**Mr Baird:**

In this case, the Department of Justice is responsible for legislation that was made by the NIO originally. That legislation specified the Housing Executive as one of the bodies that could apply for an ASBO, and it did not involve the Department for Social Development, even though we are the parent Department for the Housing Executive.

**The Deputy Chairperson:**

We move to proposed amendment QQ. Previously, the Department tabled an amendment that was suggested by the Housing Rights Service and which would limit the withholding of consent in respect of the exchange of tenancies to antisocial behaviour. Is there any contradiction between proposed amendment QQ and the previous proposed amendment?

**Mr Baird:**

No, there is no contradiction.

**The Deputy Chairperson:**

Does the Department have any additional views on proposed amendment QQ?

**Mr Baird:**

No.

**The Deputy Chairperson:**

Are there any other views from members that we need to consider before agreeing to the amendment?

**The Committee Clerk:**

To clarify: the wording of the amendment is on page 33 of the table. As the Department indicated previously, the amendment came from the Housing Rights Service. The Department has indicated that there is no contradiction between it and the previous amendment, with which the Committee is quite happy. It is a question of the Committee's being happy with the wording.

**The Deputy Chairperson:**

Are members happy with the wording? We have already debated the amendment, so we just need to agree on the wording. Are members content with the amendment as worded in the table?

*Members indicated assent.*

**The Deputy Chairperson:**

We move to proposed amendment RR. Previously, the Committee decided to defer consideration of that proposed amendment, which relates to the guidance on antisocial behaviour, pending a resolution of the issues that we have just discussed. Is that another piece of information that we need to get before we move on?

**The Committee Clerk:**

It is a piece of information to which members have just referred. It is the guidance that the Department will issue to the Housing Executive and, indeed, the —

**The Deputy Chairperson:**

The Housing Executive's policy on antisocial behaviour. We will defer a decision on proposed amendment RR until we get the guidance and the information. Thus, we will have to park clause 9.

*Clause 10 (Disclosure of information as to orders, etc. in respect of anti-social behaviour)*

**The Deputy Chairperson:**

Clause 10 provides for the disclosure of information about certain antisocial behaviour information that may then be used in connection with an application to buy a social home; an



application to exchange a tenancy; and the allocation of accommodation or homelessness assistance. The Committee agreed previously that it would not pursue amendment XX. Subject to the information that we get, we are likely to agree to clause 9. We need to talk about the provisions in clause 10, which is on the disclosure of information. We need to agree on the categories that we have already discussed.

**The Committee Clerk:**

Yes, proposed amendment SS is to do with prescribed persons.

**The Deputy Chairperson:**

It may be handy to look at the issue of prescribed persons now.

**The Committee Clerk:**

That amendment may also have come from the Housing Rights Service. It suggested that the legislation should prescribe that only prescribed persons would be able to disclose relevant information to a landlord. The Committee may wish to ask the Department to comment on that, and members may wish to debate whether they consider the amendment to be necessary, given that the information that is to be disclosed is on such matters as indictable offences.

**The Deputy Chairperson:**

That comes up in clause 9.

**The Committee Clerk:**

Since all that information is in the public domain anyway, is there a need to have the disclosure of that information restricted to prescribed officers? The Department's argument is that the information is in the public domain anyway.

**The Deputy Chairperson:**

So the information is in the public domain anyway, and, if we agree clause 9, it will be strengthened and added to. Therefore, we are asking whether there is a need to agree the amendment to clause 10, given that, if we agree clause 9, in addition to what is there already, it would all be there.

**Mr A Campbell:**

We were able to change clause 9, which took effect [*Inaudible.*], so there is no need for it.

**The Deputy Chairperson:**

We need to decide whether we agree that there is no need for the amendment to clause 10.

**Mr F McCann:**

Are we saying that clause 9 would cover the sharing and flow of information, especially with respect to the exchange of tenancies, and allow the flow of information between —

**The Deputy Chairperson:**

My understanding is that it is about restricting disclosure to prescribed persons. We are asking whether we need to restrict disclosure, given that there would be disclosure as a result of clause 9.

**The Committee Clerk:**

Given that the information referred to in clause 9 is in the public domain, the Department's argument is that there is no need to restrict who discloses information to prescribed officers. Anybody could disclose it, because, after all, it is in the public domain. That is the Department's argument. The question is: does the Committee accept that?

**Mr F McCann:**

That is OK.

**Mr Craig:**

I certainly accept it.

**The Deputy Chairperson:**

Are members happy to accept that there is no need for amendment SS?

*Members indicated assent.*

**The Deputy Chairperson:**

We move to proposed amendments TT, UU, VV and WW. The Department advises that the information to be disclosed is to be subject to accuracy controls and that a right of reply is to be provided through the courts. The Department previously provided assurances in respect of guidance to limit discrimination against vulnerable groups. We need to determine whether, on the basis of those assurances, the Committee is content not to pursue those amendments. Members may wish to look at pages 38 and 39 of the table to refresh their memories.

**The Committee Clerk:**

It has been a long time, so I will remind members what those amendments were about. Some stakeholders raised concerns about making sure that the information to be disclosed is accurate and is subject to the protocols that housing associations use already. However, as we just heard from the Department with respect to clause 9, the information in question will be around indictable offences.

**The Deputy Chairperson:**

So it will be in the public domain anyway. That being the case, is the Committee content not to pursue any of those amendments?

*Members indicated assent.*

**The Deputy Chairperson:**

We now need to secure agreement for clause 10 as drafted.

*Question, That the Committee is content with the clause, put and agreed to.*

*Clause 10 agreed to.*

**Clause 15 (Commencement)**

**The Deputy Chairperson:**

The Department advises that it must make changes to clause 15 — the commencement clause — that are consequential to other amendments. The amendment to clause 15 has been tabled. It states:

“Clause 15, page 10, line 25, at beginning insert ‘Except as provided by subsection (1A),’  
Clause 15, page 10, line 26, at end insert—  
‘(1A) Sections 2, 5 and 7 come into operation on Royal Assent.’”

Will the Department explain the amendment?

**Mr A Campbell:**

Those changes will simply allow the regulations on landlord registration and tenancy deposits to commence on Royal Assent. Everything else will be commenced by a commencement Order. So, it is just to make sure, as the Committee wanted —

**The Deputy Chairperson:**

So, it is nothing other than a technical amendment. Do members have views on that or questions or queries on clause 15?

**The Committee Clerk:**

I should clarify that the Committee agreed clause 15 previously. However, as amendments have been tabled subsequently, members have to decide whether they are happy to revisit their decision and agree to the amended clause 15.

**The Deputy Chairperson:**

We need to re-agree clause 15 as amended.

*Question*, That the Committee is content with the clause, subject to the Department’s proposed amendment, *put and agreed to*.

*Clause 15, subject to the Department’s proposed amendment, agreed to.*

**The Deputy Chairperson:**

A large number of other amendments were proposed. Members should refer to pages 54 to 70 of the table. The Committee agreed to support KKK, LLL, MMM, NNN, PPP, QQQ, RRR, SSS, TTT and UUU. The Committee also agreed that it would not support HHH and III. I will not go through what all of those are, but that leaves us with proposed amendments JJJ and OOO.

With regard to proposed amendment JJJ, the Committee previously agreed that it would defer consideration of amendments that would alter the resources available to district councils to enforce tenancy legislation, pending a departmental response to related queries on fines etc. We also subsequently agreed to support a review of fines that generate resources for councils.

**The Committee Clerk:**

As the fines issue is subject to legal advice, it may be best to park it.

**The Deputy Chairperson:**

We will park proposed amendment JJJ, pending the list, which goes back to the issues that were raised previously. Do members agree that the Committee should park the issue on the basis that information relating to fines and fixed penalty notices is to be received, as was debated earlier?

*Members indicated assent.*

**The Deputy Chairperson:**

We proceed to proposed amendment OOO. The Committee informally agreed to support an amendment that would allow the Northern Ireland Housing Executive to work in legal partnership with other organisations. The wording of a new clause that brings that into effect has been tabled. It is the lengthy amendment that begins, “After clause 12 insert—”. Do I have to read it out?

**The Committee Clerk:**

You are not obliged to; as long as members are clear where it is.

**The Deputy Chairperson:**

Is everyone clear where that text fits into clause 12? It is after clause 12, so it will be clause 12(a). Are members happy that that text will come in after clause 12? Does the Department have any views? Do members have any views? Are we happy to secure agreement?

Are members content with the new clause?

*Members indicated assent.*

**The Deputy Chairperson:**

Is there anything that the Department wants to tell us in relation to any of the rest of this? Is there any additional information that we need? Are there any views that the Department wishes to share?

**Mr A Campbell:**

The amendments are fairly technical.

**The Deputy Chairperson:**

OK. Does anyone else have any comments? I am looking at you, Fra.

**Mr F McCann:**

We will come back to most of the stuff that I wanted to raise.

**The Deputy Chairperson:**

Are there any other views from members? No.

I advise that the Department has not yet drafted proposed amendment UUU. The clause-by-clause scrutiny will conclude at a subsequent meeting. The rest of the clauses will be agreed pending the additional information that we need.

I thank the departmental officials for persevering with us again. I am sure that you will be back.