



Northern Ireland
Assembly

**COMMITTEE FOR
AGRICULTURE AND
RURAL DEVELOPMENT**

OFFICIAL REPORT
(Hansard)

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

13 December 2010

NORTHERN IRELAND ASSEMBLY

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RURAL DEVELOPMENT**

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Members present for all or part of the proceedings:

Mr Stephen Moutray (Chairperson)
Mr Roy Beggs (Deputy Chairperson)
Mr Willie Clarke
Mr Simpson Gibson
Mr William Irwin
Mr Kieran McCarthy
Mr Francie Molloy
Mr George Savage

Also present:

Ms Patricia Casey) The Bill Clerk

Witnesses:

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

**The Chairperson of the Committee for Agriculture and Rural Development (Mr
Moutray):**

We pick up where we left off last week on the Welfare of Animals Bill. The Committee agreed to table an amendment to clause 6, because it considered the Department's proposed amendments to be too restrictive. At the last meeting, members suggested minor revisions to the amendment,

which have now been applied, and members have copies of the revised amendment.

Schedule 4A (Dogs specified for the purposes of section 6(7))

The Chairperson:

At the last meeting, the Department said that it wanted to take legal advice on the definitions of “type” and breed”. The amended schedule, as it stands, could be interpreted as allowing the cross-breeding of types of dogs, for example, a spaniel with a terrier. My understanding is that members did not wish for that, but that breeds themselves could be crossed. The Department, having taken legal advice, suggests that the amendment might read as follows:

“4A

- (1) Spaniels of any breed or combination of breeds;
- (2) Terriers of any breed or combination of breeds;
- (3) Any breed commonly used for hunting, or any combination of such breeds;
- (4) Any breed commonly used for pointing, or any combination of such breeds;
- (5) Any breed commonly used for retrieving, or any combination of such breeds.”

The Committee Clerk contacted representatives of the British Association for Shooting and Conservation (BASC) and the Countryside Alliance for their views. The former agrees with the new definition, and the latter favours retaining the English model.

Mr Molloy:

Is there any indication from the Department that it would be prepared to accept that definition, rather than the Committee having to make an amendment?

The Committee Clerk:

No. The last correspondence from the Department on clause 6 was its proposed amendment, which the Committee felt was too narrow. On that basis, the Committee staff pursued the text of an amendment to be brought by the Committee.

Mr Molloy:

The entire clause would be resolved if the Department agreed to the breeds defined in the paper, because it covers the breeds, working dogs, and hunting types. It would be better if the Department accepted that situation.

The Committee Clerk:

I agree with the member. Unfortunately, the Department has not indicated that it is prepared to

amend the clause to that extent. We have brought the text of the Committee amendment for consideration and approval.

Mr Molloy:

Have breeds used for hunting, pointing and retrieving dropped off the list? The list refers to spaniels of any breed, but not to hunters, pointers and retrievers of any breed.

The Committee Clerk:

The Chairperson referred to any breed commonly used for hunting, or any combination of such breeds, and any breed commonly used for pointing, or any combination of such breeds. That is the same thing.

Mr Beggs:

Different opinions were expressed to the Committee about the possible use of “breed” or “type”. If “breed” were used, would that require a dog to be registered as a pedigree breed? That seems to be the issue that was highlighted by the Countryside Alliance. Is that factually correct?

The Committee Clerk:

Not in respect of this clause. Part of the Department’s original amendment referred to registration with the Kennel Club. The subsequent amendment proposed by the Minister removed the necessity for registration with the Kennel Club. This clause does not contain any reference to registration.

Mr Beggs:

We are making legislation, but, ultimately, at some point, a court will decide whether a dog has to be registered as pedigree to be of a particular breed. How does an owner whose dog is not registered as pedigree prove that the dog is of a particular breed? That seems to be the issue of concern.

The Committee Clerk:

The certification of the dog will be carried out by a vet. It will be presumed that the vet will be able to ascertain whether the dog falls into the particular breed.

Mr Beggs:

Perhaps we should ask the departmental officials that question. They will be working on the issue.

The Chairperson:

I call the officials to the table.

Mr Beggs:

I am seeking clarification. There seems to be a diversity of opinion among those from whom we have taken evidence about a possible amendment. If the word “breed” were used, how would it be interpreted in law? Will there be a requirement for a particular dog to be registered as a pedigree dog with the Kennel Club or with any sort of breeding institution?

Ms Colette McMaster (Department of Agriculture and Rural Development):

I will ask Kate to answer that question. She has been speaking to our lawyers about that matter.

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

This is the Committee’s amendment. There is no requirement for a dog to be a registered pedigree. The way in which a breed is determined will be established through subordinate legislation that will set out a certification process in which owners will self-declare the breed of the dog. When docking the dog’s tail, the vet will have sight of the pups and the dam of the dog. On that basis, the vet will be able to say that the dam is of a particular breed, be it a springer spaniel or whatever.

Mr Beggs:

That is helpful. I am glad to hear that the officials have taken legal advice.

The Chairperson:

Are members content with the definitions that have been put before us today?

Mr Molloy:

Has the Department varied its opinion about the content of that amendment before it is proposed for insertion into the Bill? Will the Committee have to make an amendment?

Ms McMaster:

No. The Minister's position remains the same. She will proceed with the revised exemption that she proposed to the Committee. She had concerns about going beyond pure-bred dogs to include cross-bred dogs because of the difficulty that posed.

Mr Molloy:

OK. We will see her in court then, I suppose.

The Chairperson:

Are members content with the definitions that we read?

Members indicated assent.

Clause 6 (Docking of dogs' tails)

The Chairperson:

I ask the departmental officials to leave the table, and I will bring in the Committee Clerk on both subsections of this clause.

The Committee Clerk:

In respect of subsection (8) of the amendment, Members last week queried whether the regulatory powers that the Department would have were subject to the negative or the affirmative process. The Chairperson will come on to cover clause 55, which is where those powers are provided. The view is that the power should be related to the affirmative, rather than to the negative, process. That is in keeping with other regulatory powers which have been brought in respect of the clause.

In respect of subsection (6) of the amended clause 6, the condition that has been applied to showing a dog is:

“likely to be used for work in connection with lawful pest control or the lawful shooting of animals.”

It is proposed to amend that, with members' approval, to read:

“likely to be used for work in connection with law enforcement, lawful pest control or the lawful shooting of animals.”

Mr Molloy:

Do we need to include the hunting or shooting of animals in that, too? I ask that question because hunting is not covered in that proposed amendment.

The Committee Clerk:

I took advice, and it could be included.

Mr Molloy:

Often, a hunt may operate without shooting being involved. We should include the hunting of animals.

The Chairperson:

We could ask the officials. Will the officials please return to the table?

Ms Davey:

Let me explain. I suggest that hunting not be added to this clause, because clause 53 clearly states that nothing in the Bill affects hunting. It would be best if the clause were left like that. There is nothing in the Bill to prevent hunting animals with dogs.

Mr Molloy:

In the same way, the Bill refers to the lawful shooting of animals and control. That is my only point. Often, the hunting of animals is not associated with shooting.

Ms Davey:

I appreciate that. I am sorry, but will you elaborate? Are you talking about general hunt clubs, as in hunting with hounds?

Mr Molloy:

Yes.

Ms Davey:

The tails of such dogs are not normally or traditionally docked. The tails of foxhounds, bloodhounds and staghounds are not docked. The Committee is trying to restrict its amendment to dogs that required their tails to be docked.

Mr Molloy:

OK.

Mr Beggs:

The Committee Clerk said that a new revision to the amendment will exclude specialist dogs used by the services. Will he repeat the wording of that amendment?

The Committee Clerk:

What is currently on the table before members reads that the dog is:

“likely to be used for work in connection with lawful pest control or the lawful shooting of animals”.

The suggestion is to amend that to read that the dog:

“ is likely to be used for work in connection with law enforcement, lawful pest control or the lawful shooting of animals”.

Mr Beggs:

I raised this issue weeks ago when we looked more closely at the English legislation. I believe that England has allowed that to be included in its legislation. In particular, that amendment will include those breeds of dogs that are used for detecting drugs, etc. Such dogs can get excitable and cause damage to their tails. I am comfortable with that revision to the amendment.

The Chairperson:

Are members content?

Members indicated assent.

The Committee Clerk:

I refer members to subsections (12) and (14). At the last meeting, members asked that the reference to the payment of a fee at a dog show or an event be removed. I have spoken to legal advisers, and that would have the potential to widen significantly the definition of an event. The reference to the fee and the event is almost contractual in law, in that the event is defined as a dog show, for example. The removal of the payment of the fee leaves the interpretation that, for example, a person who attended a birthday party could instigate an offence should he or she be offended that a dog had had its tail docked. A situation in which a dog was present at a horse-jumping show would be open to the same interpretation. Do members wish to reconsider the

decision that they made last week, or are they content to allow the interpretation to be tested through the courts?

Mr Molloy:

If our amendment were accepted, that subsection of the clause would not apply to a show because it would come under the terms of treatment administered by a veterinary surgeon. Is that correct, or is the Department seeking to ban from shows those dogs that have their tails docked by whatever means?

The Committee Clerk:

Under the amendment, dogs with docked tails will not be able to be shown at an event at which members of the public attend and pay an admission fee. There is an exemption from that for hunting dogs and working dogs that have had their tails docked and which demonstrate their working ability at a show. Subsections (12) and (14) are intended to prevent cosmetic docking by including dogs that have been docked cosmetically, but there is an exemption in subsection (13), which states:

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

Mr Molloy:

I foresee a major show involving dogs with docked tails. This calls out for an alternative because, to start with, there is an equality issue. People who own a dog with a docked tail should have an equal right to show their dog, take part in competitions and everything else. If that were not allowed, I would be interested in organising some sort of a show or competition for dogs with docked tails, excluding other dogs, and let the Department deal with that. This is total discrimination in that it tries to exclude from competition people who have had their dog's tail docked.

The Committee Clerk:

The idea is to prevent dogs that have received cosmetic surgery from taking part in shows.

Mr Molloy:

My point is that it does not state that. It adds an exemption to tail-docking that is administered by veterinary surgeons, but it does not state that dogs will be excluded because they have been

cosmetically docked.

The Committee Clerk:

No, but it refers back to subsection (4), which defines the types of dogs on which docking is permitted. To restrict the potential for cosmetic docking, Members agreed that spaniels of any breed or combination of breeds be exempt. As working dogs, those breeds will still be able to be shown at a dog show if they are demonstrating their ability as working dogs.

Mr Molloy:

Am I right in saying that a spaniel will not be allowed to be shown as a spaniel with its tail docked?

The Committee Clerk:

No, because the dog will only have been certified as being a working dog to have its tail docked in the first instance.

Mr Molloy:

It cannot take part in any other part of the show, so it is being excluded.

The Committee Clerk:

It can take part in the show if it is demonstrating that it is a working dog.

The Chairperson:

Are members content that we introduce into subsections (12) and (14):

“admitted on payment of a fee”?

Mr Beggs:

What is the exact wording that is being proposed? What is proposed to be put back in after “admitted”?

The Committee Clerk:

It is the same as last week:

“admitted on payment of a fee”.

Mr Beggs:

What appears in the tabled papers does not really make sense. It talks about removal; it is not the exact wording. Are we going back to the wording in clause 6(4)?

The Committee Clerk:

Yes, it is exactly as it was before. The wording that would be introduced into subsections (12)(a) and (14)(a) is “on payment of a fee”.

The Clerk of Bills:

The proposal is simply to add the words “on payment of a fee” to both subsections.

Mr Molloy:

Sorry, could that be clarified?

The Clerk of Bills:

Subsection (12)(a) reads:

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

If you were to reverse what you did before, you would be adding the words “on payment of a fee” to make it read:

“to which members of the public are admitted on payment of a fee”.

Exactly the same words would go into subsection (14)(a), which would then read:

“that the event was not one to which members of the public were admitted on payment of a fee”.

Mr Beggs:

Is that at clause 6? I am trying to get the exact location in the main Bill. The reason why I did not like the words “on payment of a fee” was because I presumed that they would mean that, if there was no fee, the showing of cosmetically docked dogs could go ahead.

The Committee Clerk:

Not necessarily.

The Chairperson:

I will bring in one of the departmental officials.

Ms Davey:

The policy intention was never to stop, for example, small church fetes or school fetes from showing dogs. That is what would happen if you removed “on payment of a fee”. Therefore, the inclusion of “on payment of a fee” would still allow small, informal showings to go ahead, even of dogs with docked tails. The intention was to try to change the whole docking ethos within the dog breeding fraternity and the showing fraternity. It was not meant to place any sort of burden on small church fetes, etc.

Mr Beggs:

If public entrance fees were not charged at large judging events, such as regional, Northern Ireland-wide, judging competitions, presumably docked tails would then be on display at those larger events.

Ms Davey:

That is correct, but our understanding is that most of those events require the payment of a fee.

Mr Beggs:

The wording in subsection (12)(a) is:

“members of the public are admitted on payment of a fee”.

Ms Davey:

Yes, that is right.

Mr Beggs:

What if the wording were:

“payment of a fee for exhibitors or members of the public”?

Simply not charging the public for getting into events would still mean that events involving the highest level of judging could go ahead, whereas, if you prevented exhibitors from paying an entrance fee as well as spectators, I suspect that you would not affect the small church or rural fairs, but you would certainly affect the highest quality breed shows.

Ms Davey:

That certainly sounds plausible.

Mr Beggs:

If that wording is coming back in, I would want the exhibitors also to be prevented from paying a fee, because to do otherwise would encourage the exhibition of dogs with docked tails.

The Chairperson:

Mr Beggs, will you repeat the exact wording of the amendment that you want? While you are formulating that, I make members aware that Janet Ryder from the Welsh Assembly is in the Public Gallery. You are very welcome this morning, Janet.

Mr Molloy:

I have lost track of we propose to do. Instead of making the situation easier, we are trying to make it more difficult.

Mr Beggs:

We are back to the original published Welfare of Animals Bill. The wording that I am working with is:

“A person commits an offence if—

(a) that person shows a dog at an event to which exhibitors pay a fee or members of the public are admitted on payment of a fee”.

My addition is “exhibitors pay a fee”.

Mr Molloy:

That is an entirely new provision that is not even included in the Bill. In that sense, I am certainly opposed to it.

The Chairperson:

Mr Beggs, what difference does including “exhibitors pay a fee” make to that clause?

Mr Beggs:

I am posing a question. People could try to get around the law simply by not charging the public an entrance fee. The large breed or type exhibitions and judging competitions do not occur without charging some fees and awarding prize money. Therefore, people could get around the legislation and continue to show dogs with docked tails simply by not charging the public to get in to the events. They could simply run as normal. The breeders could still assess dog types as

having docked tails when they may have been docked on a cosmetic basis. I do not agree with cosmetically docked tails. Therefore, I am just trying to find a way to prevent that option from being presented to breeders. They have more of an idea of breed or type than members of the public.

The Committee Clerk:

If a show is significant enough to provide prize money, it follows from that that it will have to charge an admission fee of some type. Some shows in mainland UK have done away with an admission fee and now charge for car parking. The legal advice of which I am aware is that that is still an offence because there is still a contractual link between the payment of the car parking and the show.

Mr Beggs:

How would the Department stop breeders entering cosmetically docked dogs to a show to which members of the public were not charged?

Ms Davey:

The legislation, as currently drafted, would not stop that. What you have suggested, however, is a means of closing that loophole.

Mr Beggs:

I beg to move that the Committee recommend to the Assembly that clause 6 (12)(a) and clause 6(14)(a) be amended as follows: After “to which”, insert “exhibitors pay a fee”.

The Committee Clerk:

I want to confirm, Mr Beggs, that you propose that subsections (12) and (14) of the amended clause 6, which was tabled this morning, should read:

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

Mr Beggs:

Yes.

Again, amended clause 6(14)(a) states:

“that the event was not one to which exhibitors pay a fee or members of the public were admitted on payment of a fee”.

Mr Beggs:

Clause 6(14)(a) is followed by paragraphs (b) and (c); therefore, all of those will be affected. Is that right?

The Committee Clerk:

Yes.

Mr Beggs:

Well, let us just have clarification of that one.

Mr Molloy:

Chairperson, our original proposal was to remove the reference to fees. Therefore, this is a counter proposal.

Mr Beggs:

We were given an explanation of why it would not work, which is why I am going with the counter proposal.

Question put, that clause 6(12)(a) and 6(14)(a) be amended to read: “that person shows a dog at an event to which exhibitors pay a fee or members of the public are admitted on payment of a fee”.

The Committee divided: Ayes 4; Noes 1.

Ayes

Mr Beggs, Mr Gibson, Mr Moutray, Mr McCartney.

Noes

Mr Molloy.

The Chairperson:

The proposal will be subject to legal advice.

Mr W Clarke:

I abstain because I do not agree with the Committee’s amendment.

The Committee Clerk:

We need to adjourn to make the amendment to the clause and bring it back to the Committee so that the Chairperson can put the formal question on the clause.

The Chairperson:

OK. We will adjourn for 15 minutes.

Adjourned from 11.53 am to 12.23 pm.

The Chairperson:

The Committee Clerk will now talk us through the draft amendment.

The Committee Clerk:

The draft amendment to clause 6 has been tabled for members. Subsection (7) states:

(7) The second condition referred to at subsection (5) is that the dog is of a breed specified in Schedule 4A”.

Subsection (8) of the draft amendment reads:

“The Department may by regulations add to, or remove, breeds of dog from the list in Schedule 4A.”

Subsection (9) of the proposed amendment reads:

“It is a defence for a person accused of an offence under subsection (1) or (2) to show that that person reasonably believed that the dog was one in relation to which subsection (4) applies.”

In respect —

Mr Beggs:

Why has the first one been added? It does not read well. Sorry, OK. It is fine.

The Committee Clerk:

Subsection (12)(a) is the part that Mr Beggs asked to be amended. We have taken some quick legal advice on that, and the definition of an exhibitor may be open to question. However, the first part of subsection (12)(a) states that “that person shows a dog”. So, in essence, that constitutes an exhibitor. With members’ approval, I propose that subsection (12)(a) should read:

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

Mr Savage:

That needs to be put in, Chairperson, because it worried me. Something needs to be added there.

The Committee Clerk:

The Chairperson previously brought to members' attention the fact that these proposed amendments are subject to legal advice, which we must take.

Mr Beggs:

I am curious about why you have gone away from the original wording, even to have the amendment say:

“that person pays a fee or members of the public are admitted on payment of a fee”

I thought that would have been clearer. One may pay a fee to enter a dog, but not to enter the event. I wanted to stop the exhibitor — although we have been given advice to avoid using that word — so, if the amendment said that “that person” did not pay a fee, which was more like an entrance fee for a dog, “or members of the public”, I do not know whether that can be neatly captured in a single line in the way that you are talking. There are two issues — the entrance fee for the dog, which provides prizes for the competition; and members of the public paying a fee.

The Committee Clerk:

I understand that you are suggesting that the proposed amendment should read:

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

Mr Beggs:

Yes. That is fine. I am happy with that.

The Chairperson:

Are members content?

Mr Molloy:

No. I oppose that.

The Committee Clerk:

Subsection (12)(c) is an amendment that was not covered, which reads:

“the removal took place after the coming into operation of this section.”

Amended subsection (14)(a) is based on the Deputy Chairperson's proposals on subsection (12)(a), which might read:

"that the event was not one to which that person paid a fee or members of the public were admitted on payment of a fee".

Amended subsection (18) should read:

"In this section 'subsection (4) dog' means a dog whose tail has, after the coming into operation of this section,".

Finally, schedule 4A is entitled, "Dogs specified for the purposes of section 6(7)", and reads:

"1. —(1) Spaniels of any breed or combination of breeds

(2) Terriers of any breed or combination of breeds

(3) Any breed commonly used for hunting, or any combination of such breeds

(4) Any breed commonly used for pointing, or any combination of such breeds

(5) Any breed commonly used for retrieving, or any combination of such breeds".

Mr Molloy:

I record my objection to subsection (14)(a).

The Chairperson:

That has been noted.

Mr Gibson:

In clause 6(6), we had talked about introducing the law enforcement exemption. That has not been included in the draft amendment.

The Committee Clerk:

I apologise for that.

The Chairperson:

We will include that.

Question put, That the Committee is content with clause 6, subject to the Committee's proposed amendments, *put and agreed to*.

Clause 6 agreed to.

The Chairperson:

There are a number of consequential amendments in respect of penalty offences. Members previously agreed the policy principle. The Committee has until 9.30 am on the Thursday before the Bill's Consideration Stage to finalise the amendments. Members will, however, be asked to express whether they are content with the proposed amendments.

Before asking the Committee Clerk to speak on these matters, I advise members that any proposed amendments for the following clauses will be subject to legal advice that confirms that the amendments are competent and do not infringe on human rights.

Mr Molloy:

There were a couple of small points that we said that we would come back to in order to discuss their definition. Maybe we have covered them; I cannot remember from last week. We said that we would further define those points.

The Committee Clerk;

There were a number of suggestions about expansions and definitions in the report. We will come to those after we finish the clause-by-clause scrutiny.

As the Chairperson indicated, clause 6 as amended introduces two more offences, which have a knock-on impact on clauses 31 to 33, 36, 41 and 55.

Clause 31 (Penalties)

The Committee Clerk:

Clause 31 deals with penalties and makes provision for either a summary penalty or an indictment. Clause 6(10), as amended, states:

“A person commits an offence if—

(a) that person owns a subsection (4) dog, and

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

It is being proposed that that offence should carry a fine, which would mean that there needs to be a consequential amendment to clause 31(1).

Mr Molloy:

Sorry, will you repeat that?

The Committee Clerk:

Clause 6 as amended has created two new offences, the first being through clause 6(10). It is being proposed that it is an offence if a person owns a subsection 4 dog — a dog that is unable to be docked — and, before the dog is eight weeks old, that person fails to take reasonable steps to have it identified as a subsection 4 dog in accordance with regulations made by the Department. That is a new offence. If there is failure to comply, it is proposed that a fine be imposed, which is the lesser of the two penalties.

Mr Molloy:

It is saying, therefore, that a person who owns a dog specified in schedule 4A will have to register it at that time; otherwise they would be committing an offence.

The Committee Clerk:

The proposed subordinate legislation would introduce a two-part certification process. The first part would require a dog to be certified before its tail is docked; before it is five days old. The second part must be completed before the dog is eight weeks old. Essentially, the breeder will have to certify and register the dog. If he fails to do so, he will have committed an offence under clause 6(10). It is proposed that that offence would be subject to a fine under clause 31(1), as opposed to summary conviction, imprisonment or indictment under clause 31(2).

Mr Molloy:

Did you say eight weeks old?

The Committee Clerk:

Yes, before a dog is eight weeks old.

Mr Savage:

Does that mean that if I have a certain breed of dog that falls within that category, I must register it?

The Committee Clerk:

Yes, you would have to register it with a vet.

Mr Savage:

And it would have to fall within one of those categories?

The Committee Clerk:

Before the tail is docked, the vet would certify whether the dog falls within one of the schedule 4A breeds as currently drafted, thus completing the certification process before the dog is weaned from the dam. It falls to the breeder.

Mr Molloy:

Are there any proposals to make it a hanging offence? That is about the only thing that is missing.

Mr Beggs:

You seem to be talking about amending clause 31(1). Presently, it states that someone:

“shall be liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5”.

Both penalties are presently included. What is being proposed?

The Bill Clerk:

For each of two main offences, the Committee has to decide whether it wants the penalty to be summary conviction in a Magistrate’s Court, where there would be a choice of imprisonment for a term not exceeding six months or a fine not exceeding level 5, which, I believe, is up to £5,000. Alternatively, if members feel that that penalty is not serious enough, they could attach the new offence to subsection 31(2), which also allows the offence to go to summary conviction. The difference is that, as well as going to summary conviction, it can go to conviction on indictment in the Crown Court. In that case, imprisonment could be for a period not exceeding two years and an unlimited fine could be imposed. It depends on how serious you want the penalty for each offence to be.

Mr Molloy:

Why would we need that? If a person does not register a dog, surely that would exclude it from

having its tail docked.

The Committee Clerk:

It does not. The tail might already have been docked, and if it is not docked in accordance with the certification process, by receiving veterinary certification, that, in itself, would be an offence. Therefore, the tail would already have been docked, so the certification process would have already commenced.

Mr Molloy:

I think that we are debating whether bad practice in the past will be exaggerated further. We will find that people deal with the legislation in the normal way and that we will have more stray dogs than ever, because we are making the registration process more complicated than necessary. However, that seems to be the Department's way of doing things.

The Chairperson:

Are members content to add the offence to clause 31(1)?

Mr Molloy:

What level of penalty would that entail?

The Committee Clerk:

The offence would be created under proposed amended clause 6(10). Under clause 31(1) anyone convicted of the offence would be:

“liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale”.

Therefore, the fine could not exceed £5,000.

Mr Molloy:

I am totally opposed; it is madness.

Mr Beggs:

Where are we? I am looking at clause 6(10) in the Bill —

The Committee Clerk:

We are considering the proposed amended clause, as agreed by the Committee.

Mr Beggs:

OK.

Question put, That amended clause 6(10) be attached to clause 31(1).

The Committee divided: Ayes 5; Noes 1.

Ayes

Mr Beggs, Mr Gibson, Mr Irwin, Mr McCartney, Mr Moutray.

Noes

Mr Molloy.

Question accordingly agreed to.

Mr Savage:

Although I am not voting against it, we could be solving one problem and creating another.

The Chairperson:

We will record Mr Molloy's opposition.

The Committee Clerk:

The second offence is created under proposed amended clause 6(15), which reads:

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

Again, members must consider whether that proposed amended subsection should be attached to clause 31(1) or whether it is a more serious offence that should be attached to clause 31(2).

Mr Molloy:

I suppose that the only safety in all of this is that it would be impossible to police and would never actually happen. In that sense, the whole Bill will become redundant after a period of time.

The Chairperson:

Members may believe that that is a more serious offence and that it should be attached to clause 31(2) because it covers someone knowingly giving false information.

Question put, That amended clause 6(15) be attached to clause 31(2).

The Committee divided: Ayes 6; Noes 1.

Ayes

Mr Beggs, Mr Gibson, Mr Irwin, Mr McCartney, Mr Moutray, Mr Savage.

Noes

Mr Molloy.

Question accordingly agreed to.

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

The Committee divided: Ayes 6; Noes 1.

Ayes

Mr Beggs, Mr Gibson, Mr Irwin, Mr McCartney, Mr Moutray, Mr Savage.

Noes

Mr Molloy.

Question accordingly agreed to.

Clause 31 agreed to.

Clause 32 (Deprivation)

The Committee Clerk:

Under clause 32, the court can deprive the owner of ownership of an animal. Members are again asked to consider whether the two offences created in proposed amended clauses 6(10) and 6(15) are serious enough to be attached to clause 32(2), so that ownership may be deprived.

The Chairperson:

This relates to the giving of false information. Members may want the more serious penalty to apply.

Question put, That proposed amended clause 6(15) be attached to clause 32.

The Committee divided: Ayes 6; Noes 1.

Ayes

Mr Beggs, Mr Gibson, Mr Irwin, Mr McCartney, Mr Moutray, Mr Savage.

Noes

Mr Molloy.

Question accordingly agreed to.

Question put, That the Committee is content with clause 32 as amended.

The Committee divided: Ayes 6; Noes 1.

Ayes

Mr Beggs, Mr Gibson, Mr Irwin, Mr McCartney, Mr Moutray, Mr Savage.

Noes

Mr Molloy.

Question accordingly agreed to.

Clause 32 agreed to.

The Committee Clerk:

I would like to point out that clauses 32, 33, 36 and 41, which we are considering, will be subject to legal advice on competence and whether they are in line with human rights. We will take that advice afterwards.

Clause 33 (Disqualification)

The Committee Clerk:

Members are asked to consider whether either or both offences in proposed amended clauses 6(10) and 6(15) should be attached to clause 33, whereby, if an individual is in breach of the offence, the courts can disqualify that person from owning a dog.

Mr Molloy:

Chairperson, are we dealing with reality? This is our amendment, and people want to get it through. However, you are going the wrong way about getting it through. I will oppose it in the Committee. Getting the clause through will be a problem. It is unrealistic to ban one person in a house from keeping a dog, because everyone else in the house can keep one.

Mr Beggs:

I want to be clear about what we are doing in respect of section 16. You talked about clause 33, disqualification, and then referenced that to clause 6.

The Committee Clerk:

We are discussing proposed amended clauses 6(10) and 6(15).

Mr Beggs:

Where is that in hard print?

The Committee Clerk:

It is tabled. Members agreed the amendment, and two offences have been created at clauses 6(10) and 6(15). As members agreed to create those two offences, they have to allocate the level of penalty against those offences.

Mr Beggs:

OK. I understand.

The Committee Clerk:

Members do not actually have to prescribe it. They can assess whether deprivation is a high enough penalty, whether the court should have the right to disqualify, or, as in clause 36, whether the animal should be destroyed. What is being asked is whether members wish to attach either of the offences to clause 33 to disqualify a person from owning a dog.

Mr Savage:

When we talk about animals, does that cover the whole spectrum: poultry, dogs and so on?

The Committee Clerk:

No; it is in respect of dogs only.

Mr Molloy:

That is where the Department's sleight of hand comes in. One would have thought from the start that we were dealing with dogs' legislation, but, on some occasions, the Department wants authority to deal with all animals. Mr Savage is correct. This is unclear, because the Department will be able to take the offences that are being created in relation to dogs here and interpret and implement them in relation to all animals at any time. As the Department has said before, it is a Welfare of Animals Bill not dogs legislation.

The Chairperson:

OK. I invite the departmental officials to the table.

Mr Molloy:

What time are we breaking at?

The Chairperson:

Do members wish to adjourn now?

Members indicated assent.

The Chairperson:

We will adjourn for an hour.

Adjourned from 12.44 pm to 1.59 pm.

The Chairperson:

We will resume with clause 33. At this point, I will ask the Committee Clerk to speak.

The Committee Clerk:

Members were considering whether to attach either clause 6(10) or clause 6(15) to clause 33, which is entitled “Disqualification”. It was proposed to attach clause 6(15), which is about providing false information to a veterinary surgeon, to clause 33 to deal with circumstances in which, for example, a breeding establishment continually provides false information or docks tails itself. It may then be appropriate to allow the courts to disqualify that person from keeping animals.

The definition in the Bill is in clause 33, which mentions that there will be disqualification from owning or keeping animals. However, clause 33(5) provides the courts with the opportunity to stipulate what range of animals should be disqualified. It states that:

“Disqualification under subsection (2), (3) or (4) may be imposed in relation to animals generally, or in relation to animals of one or more kinds.”

If an offence in relation to tail-docking were brought before the courts, it would be expected that if disqualification were to be applied, it would be applied against the keeping of dogs. However, the courts have the power within the Bill to go beyond that range.

The Chairperson:

Is that clear to members?

Question, That clause 6(15) be attached to clause 33, put and agreed to.

Question, That the Committee is content with clause 33 as amended by the Committee, put and agreed to.

Clause 33 agreed to.

Clause 36 (Destruction in the interests of an animal)

The Committee Clerk:

It is proposed that clause 6(15) be attached to clause 36. Again, I use the example of a breeding establishment that continually provides false information and so on, or in this case, where the tail-docking has been carried out without or by someone other than a veterinary surgeon. It may be that, for the welfare of the animal, it has to be destroyed.

Mr Beggs:

The Clerk has given a useful explanation about the exceptional circumstances under which these powers may be required. I am aware that where clarification or direction is helpful, it can be made in the course of the Assembly debate, so that it is made clear that the powers we are talking about here would only be seen in exceptional circumstances. I ask the Clerk to check out if it would be appropriate for the Chairperson, in pushing these amendments, to highlight the fact that the power would only be used in exceptional circumstances, otherwise it might be overly executed by the courts. I see it being applied only in really harsh, exceptional circumstances.

The Committee Clerk:

It would be entirely appropriate to state that during the debate, but it would also be appropriate if members were of a view to state that in the Committee report.

Mr Beggs:

I think it would be important to do so.

The Committee Clerk:

It is going to be discussed at a later point.

The Bill Clerk:

The destruction of animals section says that the court may, if satisfied, on the basis of the evidence given by the veterinary surgeon, if it is appropriate to do so in the interests of the animal

—

Mr Beggs:

My comments were as much about previous evidence.

The Bill Clerk:

It is a little bit narrower.

Question, That the Committee is content with clause 36 as amended by the Committee, put and agreed to.

Clause 36 agreed to.

Clause 41 (Orders with respect to licenses)

The Committee Clerk:

Members will be aware that the Bill will allow for the licensing and registration of breeding establishments. If continual false information was being given from such an establishment, it may be appropriate for the courts to remove its licence.

Question, That clause 6(15) be attached to clause 41, put and agreed to.

Question, That the Committee is content with clause 41 as amended by the Committee, put and agreed to.

Clause 41 agreed to.

Clause 55 (Regulations)

The Committee Clerk:

The Department and the Committee have previously agreed that the Department would amend clause 55 in respect of clause 1(3). Members then had concerns about clause 6(8) and the

regulatory powers in their amendment. That will be included in clause 55, which will allow for the regulatory powers to be of the affirmative process as opposed to a negative process.

Question, That the Committee is content with clause 55 as amended by the Committee, put and agreed to.

Clause 55 agreed to.

The Committee Clerk:

I will draw members' attentions to some editorial amendments that will result in clauses 31, 32, 33, 36 and 41. They are editorial, because we removed various parts of clause 6. They refer to a change in numbering. We do not have to formally table those amendments because they are editorial, but members may wish to note them.

Schedule 1 (Procedures to which section 5 does not apply)

The Committee Clerk:

At previous meetings, the Department explained that schedule 1 is to be withdrawn and replaced by a list of permitted procedures. Members previously agreed to do that.

Question, That the Committee is content with the schedule, put and negated.

Schedule 1 disagreed to.

Long title agreed to.

The Chairperson:

Next is the consideration of the Committee report on the Welfare of Animals Bill. Each section will be taken sequentially, with the exception of the section entitled "Recommendations", to which we will return if members have approved the body of the report.

The Committee Clerk:

Pages 1 to 3 deal with membership and powers and a table of contents. Those are factual representations.

Pages 1 to 3 agreed to.

The Committee Clerk:

Members previously indicated that they were content with paragraph 1 of the executive summary. Members had asked that paragraph 2 be amended to read:

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

Members had expressed concern about welcoming the Bill into Committee Stage. That amendment has been made on the first line of the draft report.

Paragraph 2 agreed to.

Paragraphs 3 to 7 agreed to.

The Committee Clerk:

Members indicated that they wished to see a balance in paragraph 8 in relation to the representation of the evidence regarding terriers. At last week’s meeting, the Minister’s provision of evidence in respect of terriers was introduced confirming why she wished to have terriers removed from the exemption. Members asked that organisations such as the British Association for Shooting and Conservation be included in that, too. The amended part of the paragraph now reads:

“The Minister indicated that terriers were excluded from this exemption due to there not being any evidence of damage to their tails. This contradicted both oral and written evidence received by the Committee from the British Association for Shooting and Conservation and the National Working Terrier Federation, both of whom stated that injuries to terrier tails were more acute because of the need to flush pests from denser cover and, on many occasions, underground. The Minister subsequently agreed to remove the requirement for the sire or dam to be registered through the Kennel Club.”

The Chairperson:

Members indicated that they wished to see a balance in this paragraph in relation to the representation of evidence regarding terriers. A suggested amendment has been included in paragraph 8. Therefore, are members content with amended paragraph 8 of the executive summary?

Paragraph 8 agreed to.

The Committee Clerk:

Members indicated that they wished to see paragraph 9 deleted from the report. However, its

reference to policy principles provided members with assurance that a sufficient level of protection against the cosmetic docking of dogs' tails could be provided through subordinate legislation. I have redrafted paragraph 9 for consideration.

Perhaps members can cast their minds back to 16 November when the Minister was here and tabled policy principles on tail docking. Members agreed that they would bring an amendment and that they wished to see those policy principles brought forward as subordinate legislation. That is why that was referred to in paragraph 9. The paragraph has been amended:

“Members noted the policy principles for subordinate legislation to control the docking of dogs' tails tabled by the Department, and felt that those principles provided a sufficient level of protection against the cosmetic docking of dogs' tails.”

The Chairperson:

Are members content with amended paragraph 9 of the executive summary?

Paragraph 9 agreed to.

The Committee Clerk:

Members queried references in paragraph 10 to cross-breeds and the loopholes within the paragraph. The reference to cross-breeds as working or hunting dogs was provided in evidence by, among others, BASC and the Countryside Alliance. Members are correct in stating that working dogs are not exclusively pure-breds or cross-breeds, and the paragraph has been amended accordingly.

Members were again correct in stating that the primary reason for extending the exemptions to clause 6, supported by subordinate legislation, was not to close the loopholes identified in the English and Welsh legislation. However, from the Committee's perspective, it is important that that function is carried out. Therefore, paragraph 10 has been revised.

The Chairperson:

Are members content with paragraph 10 of the executive summary?

Paragraph 10 agreed to.

The Chairperson:

Are members content with paragraph 11 of the executive summary?

Paragraph 11 agreed to.

The Committee Clerk:

At the previous meeting, members requested that, in the section titled “Enforcement and resourcing implications for local government”, paragraphs 12 to 18, be rearranged so that the cost implications to local government arising from enforcement are made more prominent. I have drafted an amended section for members to consider.

Mr Beggs:

I declare an interest as a local councillor.

Mr Irwin:

I declare an interest as a local councillor.

Mr McCartney:

I declare an interest as a local councillor.

The Chairperson:

Are members content with paragraph 12?

Paragraph 12 agreed to.

The Chairperson:

Are members content with paragraph 13?

Mr W Clarke:

Is the reference to “26 councils” necessary, or could the reference be just to “councils”? I am conscious of the review of public administration.

The Committee Clerk:

The only reason that it is “26 councils” is to show the extent to which members felt that £760,000

for all councils was inadequate. If members are content, reference to the 26 councils could be taken out.

Mr W Clarke:

I think that a simple reference to councils is tighter.

The Chairperson:

Do members agree with that?

Paragraph 13 agreed to.

The Chairperson:

Are members content with paragraph 14?

Mr Beggs:

Was the number of calls a month 8,000 or 4,800?

The Committee Clerk:

It was 8,000 calls a month. As regards the 4,800; sorry, that was my fault — 40% of 8,000 is 3,200. I put down the balance of 4,800, which is 60%.

Mr Beggs:

I knew that I had seen a different figure.

The Committee Clerk:

Sorry about that. I apologise for not drawing it to members' attention.

Paragraph 14 agreed to.

Paragraphs 15 and 16 agreed to.

The Committee Clerk:

In paragraph 17, there was some discussion about:

“for a period not less than 12 months”.

I confirm that that means a minimum of 12 months: nothing will be introduced before a period of 12 months has passed.

The Chairperson:

Are members content with paragraph 17?

Paragraph 17 agreed to.

The Committee Clerk:

In respect of paragraph 18, the Hansard report shows that there was some concern and debate on how the Committee could do more than just take briefings from the Department and council officials. In respect of budgets, I have suggested:

“The Committee recommends that the Department undertake regular reviews to ensure that funding in respect of these duties remain a priority area within departmental budgets.”

In effect, that would mean that, in various monitoring rounds, the Committee could specifically ask the Department whether funding for councils remains part of its costs and budget allocation.

The Chairperson:

Are members content with paragraph 18?

Paragraph 18 agreed to.

The Chairperson:

Members previously agreed to paragraphs 19 and 20. With regard to paragraphs 21 and 22, members asked that they be amended to state that councils currently carry out a registration function in respect of breeding establishments and that following the Bill’s enactment, the licensing function undertaken by local councils will be subject to “full cost recovery”. Members also asked that the paragraphs be amalgamated. A revised paragraph 21 is presented for your consideration. Are members content with the amended, amalgamated paragraph 21 of the executive summary and with the free-numbered paragraph 22?

Paragraph 21 and 22 agreed to.

The Chairperson:

We will return to the recommendations following consideration of the report. Members previously expressed that they were content with the introduction, now numbered paragraphs 24 to 27 inclusive.

I return to members' decision to remove the section titled 'Summary of the Welfare of Animals Bill', as presented to the Committee by departmental officials during Committee Stage. At the previous meeting, members queried why that was included in the report. I have spoken to the Clerk, and he advises that, as in the previous three Committee reports, this is included to set the context between the Bill, as presented to the Committee, and amendments and recommendations made by the Committee during the Consideration Stage. In other words, it provides transparency and allows readers to make comparison between the Bill entering and leaving the Committee Stage. On reflection, I also have concerns that a contradiction has arisen with regard to how members of the public, particularly rural constituents, might access the report. It was suggested that most would access the report online and that a hyperlink could be inserted to allow remote access to the summary. However, as members will be aware, the Committee has made numerous representations to the Department and others in respect of the inadequate broadband and Internet access in rural areas. Naturally, I am concerned that that important transparency will inadvertently be denied to a large section of the rural community.

Do members wish to reassess their decision from last week and include this section in the draft report?

Members indicated assent.

The Chairperson:

Members previously indicated that they were content with the new paragraphs 28 to 31 inclusive. Therefore, I will move on to the renumbered paragraphs 32 to 38, under the heading of clause 6, "Docking of dogs' tails". Are members content with paragraphs 32 to 38, as drafted?

Paragraphs 32 to 38 agreed to.

The Chairperson:

Members agreed to defer consideration of paragraphs currently numbered 46 to 60 dealing with

consequential amendments. Members have agreed the clauses. Are members content with paragraphs 46 to 60 inclusive?

Paragraphs 46 to 60 agreed to.

The Chairperson:

Members previously indicated that they were content with paragraphs now numbered 61 to 64 inclusive. I will move on to paragraph 65. Members agreed to amend paragraph 65 to read, “receive regular progress briefings”. That amendment has now been applied. Are members content with paragraph 65?

Paragraph 65 agreed to.

The Chairperson:

Members wished to see paragraph 66 expanded, and the Clerk has drafted an amendment. Are members content with paragraph 66?

Mr Beggs:

Is amended paragraph 66 in our document?

The Committee Clerk:

It is in the tabled documents. Previously, the paragraph read, “The Committee agreed the amendment”. It now reads:

“The Committee agreed the amendment proposed by the Department, subject to confirmation from the Minister”.

The Chairperson:

Are members content with paragraph 66?

Paragraph 66 agreed to.

The Chairperson:

Members agreed to defer paragraphs 67 and 68 so that it could be confirmed that the departmental regulatory powers contained in clauses 1, 3 and 6 would be subject to the affirmative process. I confirm that the clause will be amended to do so. Are members content with paragraphs 67 and

68?

Paragraphs 67 and 68 agreed to.

The Chairperson:

Members wished to have different examples of permitted procedures in respect of paragraph 69. Those have now been provided. Are members content with paragraph 69 as amended?

Paragraph 69 agreed to.

The Chairperson:

Members agreed to paragraphs 70 and 71.

The Chairperson:

Members wished to see the amendment to paragraph 72 that they agreed, and the Committee Clerk has drafted that. Are members content with paragraph 72 as amended?

Paragraph 72 agreed to.

The Chairperson:

Members agreed to paragraphs 73 to 138 at our last meeting. I return to the section “Recommendations”, at paragraph 23. Are members content with the five bullet points under that section?

Members indicated assent.

The Chairperson:

Are members content with paragraph 23?

Paragraph 23 agreed to.

The Committee Clerk:

Sorry, members: I should have drawn your attention to paragraph 11, which contains the definitions of the types of dog that was previously agreed, rather than what was agreed this

morning on the breeds of dogs. If members are content, I will amend that paragraph to mirror what has been agreed in respect of clause 6.

The Chairperson:

Are members content with paragraph 11?

Paragraph 11 agreed to.

The Chairperson:

Are members now content with the amendments that have been made to the report?

Members indicated assent.

The Chairperson:

Are members content that the minutes and the Hansard report of this meeting be appended to the report unapproved?

Members indicated assent.

The Chairperson:

Are members content that the report be laid in the Business Office?

Members indicated assent.

The Chairperson:

Are members content to approve that the report go to print?

Members indicated assent.

The Chairperson:

That concludes the Committee Stage of the Welfare of Animals Bill. I thank members, departmental staff and Committee staff for their support during this process.