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Northern Ireland Assembly

Tuesday 18 January 2011

The Assembly met at 10.30 am (Mr Deputy Speaker [Mr McClarty] in the Chair).

Members observed two minutes' silence.

Executive Committee Business

Dogs (Amendment) Bill: Consideration Stage

Mr Deputy Speaker: I call the Minister of Agriculture and Rural Development to move the Consideration Stage of the Dogs (Amendment) Bill.

Moved. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Mr Deputy Speaker: Members will have a copy of the Marshalled List of amendments detailing the order for consideration. The amendments have been grouped for debate in the provisional grouping of amendments selected list.

There are two groups of amendments, and we will debate the amendments in each group in turn. The first debate will be on amendment Nos 1, 8, 9, 11 and 12, which deal with Assembly control of Order-making powers and the amount of fixed penalty. The second debate will be on amendment Nos 2 to 7, 10 and 13, which deal with the control of dogs, including attacks on livestock, certain other animals and people.

I remind Members who intend to speak that, during the debates on the two groups of amendments, they should address all the amendments in each group on which they wish to comment. Once the debate on each group is completed, any further amendments in the group will be moved formally as we go through the Bill, and the Question on each will be put without further debate. The Questions on stand part will be taken at the appropriate points in the Bill. If that is clear, we shall proceed.

Clauses 1 to 3 ordered to stand part of the Bill.

Clause 4 (Fees)

Mr Deputy Speaker: We now come to the first group of amendments for debate. With amendment No 1, it will be convenient to debate amendment Nos 8, 9, 11 and 12. The amendments deal with the Assembly's control of Order-making powers and the amount of fixed penalty. Members should note that amendment No 1 is a paving amendment to amendment No 9 and that amendment Nos 11 and 12 are consequential to amendment No 9.

The Minister of Agriculture and Rural

Development (Ms Gildernew): I beg to move amendment No 1: In page 3, line 24, leave out from "and" to end of line 26.

The following amendments stood on the Marshalled List:

No 8: In clause 14, page 9, line 26, leave out from "in pursuance" to end of line 32 and insert

"to a district council in pursuance of a notice under Article 36 in respect of an offence to which Articles 36 to 38 apply—

(a) is the amount specified by the district council; or

(b) if no amount is so specified, is £75.

(2) A district council may under paragraph (1)(a) specify different amounts in relation to different offences.

(3) A district council may make provision for treating a fixed penalty payable to that council in pursuance of a notice under Article 36 as having been paid if a lesser amount is paid before the end of a period specified by the council.

(4) The Department may by regulations make provision in connection with the powers conferred on district councils under paragraphs (1)(a) and (3).

(5) Regulations under paragraph (4) may (in particular)—

(a) require an amount specified under paragraph (1)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a district council can make provision under paragraph (3).

(6) The Department may by order substitute a different amount for the amount for the time being specified in paragraph (1)(b).” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 9: After clause 14, insert the following new clause:

“Assembly control of orders made by Department

14A. For Article 54 of the Dogs Order substitute—

‘Orders

54.—(1) Except as provided by paragraph (2), orders made by the Department under this Order are subject to negative resolution.

(2) No order shall be made under Article 7(6), 8(4), 23(7)(b), 25(2)(f), 25(4), 25B(1), 28(3)(b), 29(5)(b), 33(3)(c), 35(2), 38(6) or 46 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.’” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 11: In schedule 1, page 11, line 9, leave out paragraph (4). — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 12: In schedule 2, page 11, column 2, leave out lines 18 to 20 and insert

“In Article 8(4) the words ‘, subject to affirmative resolution’.

In Article 23(7)(b) the words ‘, subject to affirmative resolution,’.

In Article 25(4) the words ‘, subject to affirmative resolution,’.

In Article 25B(1) the words ‘, subject to affirmative resolution,’.

In Article 35(2) the words ‘subject to affirmative resolution,’.

In Article 46 the words ‘, subject to affirmative resolution,’” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

The Minister of Agriculture and Rural

Development: Before I speak on the first group of amendments, I take this opportunity to thank the Chairperson, his predecessor and members of the Agriculture and Rural Development Committee

for their very detailed and constructive scrutiny of the Bill. The amendments are the result of the Committee’s hard work and the efforts of the Office of the Legislative Counsel, legal advisers and officials in my Department. I thank everyone involved for their efforts. In particular, I thank the many stakeholders who contributed to the development of the Bill. Their advice and contributions have been invaluable.

I believe that the amendments that I tabled will strengthen the Bill, which, in turn, will further improve the dog control system established by the Dogs Order 1983. We have discussed and agreed the key elements of the Bill in the Chamber before: compulsory microchipping; a system of control conditions for problem dogs; an increase in the dog licence fee; and increased fixed penalties for offences under the 1983 Order. The amendments will not change those key features.

I will discuss the amendments in detail in a moment. First, I want to remind the Assembly why the Bill is before us. The Dogs Order 1983 was ahead of its time, establishing a system of local authority dog wardens funded in part by the licence fee. The system has significantly reduced the number of stray dogs, the number of attacks on people and livestock worrying. However, more could be done. Far too many owners still allow their dogs to stray, and far too many stray dogs impounded by councils are unidentifiable and owners unaccountable.

Amendment No 1 is one of a group of amendments — amendment Nos 1, 8, 9, 11 and 12 — that make changes to certain Order-making powers under the 1983 Order and to the system of fixed penalties for offences under that Order. I have agreed with the Agriculture and Rural Development Committee that certain Order-making powers in the Dogs Order should be subject to approval in draft by the Assembly, as opposed to the negative resolution procedure. Previously, those powers were used to make Orders exempting the Prison Service and security forces operating in a public order role from various provisions of the 1983 Order. The Committee felt that those powers were too significant to be subject to the negative resolution process.

With that in mind, amendment No 9 introduces a new clause, substituting for article 54 of the Dogs Order 1983 a new article that provides that the draft affirmative procedure, rather than

the negative resolution procedure, will apply to any Order that exempts dogs used for specified purposes, such as police purposes, from certain requirements of the Dogs Order. To maintain consistency, Orders that previously were subject to affirmative resolution also need to be made subject to approval in draft. Amendment Nos 1, 11 and 12 make the appropriate consequential changes to the Bill. I am grateful for the Committee's contribution on that and on the other amendments that I tabled.

Amendment No 8 is the final amendment in the first group. Under the Dogs Order 1983, certain offences may attract fixed penalties ranging from £10 to £25. When the Bill was introduced, clause 14 proposed a penalty of £50 for all fixed penalty offences under the 1983 Order. However, the Environment Minister's Clean Neighbourhoods and Environment Bill proposes a slightly different system to deal with dog-fouling offences, which, in many council areas, will also be enforced by dog wardens. The Committee suggested that the two systems should work along the same lines, and I was happy to table amendment No 8 to implement that suggestion. Amendment No 8 provides for councils to set fixed penalties at a level to suit local circumstances or, where they do not, for a fixed penalty of £75. The amendment also provides for councils to vary the level of fixed penalty for different offences under the Dogs Order and for reductions for early payment of fixed penalties.

Under the system proposed in amendment No 8, the Department may make regulations specifying a range within which fixed penalties may be set and regulating the reductions for early payment that I mentioned. Amendment No 8 also provides for the Department to make Orders altering the default amount of fixed penalty where councils do not set a limit. The amendment will improve the Bill's provision on fixed penalties. It allows for flexibility to suit local conditions, acknowledges that councils are best placed to identify particular problems facing their district and increases the maximum fixed penalty that can be applied. However, the Bill also retains an important provision that was introduced in May that allows councils here to retain the proceeds of the fixed penalty system for the first time. That will lead to a better resourced dog warden network and more effective enforcement of the law. Once again, the amendment, which has been agreed with

the Committee, will improve the enforcement of dog control here.

The Chairperson of the Committee for Agriculture and Rural Development (Mr Moutray): As I will refer to local government councils during the debate, I declare an interest as a member of Craigavon Borough Council.

I thank the members of the Committee for Agriculture and Rural Development, the Assembly and departmental Bill teams and supporting officials, those who provided evidence to the Committee and, finally, the Committee support team for the time and effort that they have put into getting us and the Bill to where we are today.

Mr Deputy Speaker, with your latitude, I will refer briefly to clause 2, which is entitled "Microchipping", which now stands part of the Bill. It is important to provide Members with a little clarity on that matter and to reassure them that the Committee consideration of that subject was not as fleeting as it was in the introduction of the Bill today. Rather, most of the debate on the Bill centred on that issue and whether we should have microchipping, whether there is there a need for licensing and whether dual systems are needed. The Committee concluded that microchipping would make a significant contribution to reducing the, quite frankly, disgraceful number of stray dogs euthanised in Northern Ireland each year. However, the Committee sought and has received agreement from the Minister and her Department that they will extensively consult local councils over the next 12 months to further assess the need for dual identification systems of microchipping and tagging.

This group of amendments will not only set the amount of the fixed penalty but, importantly, allow the revenue derived from that penalty to be paid directly to local councils and make a contribution to the support of dog warden provision in council areas. I emphasise that it will make only a contribution towards the supporting of council dog wardens because, frankly, it will not be sufficient, even with licensing revenues, to cover the costs of the service that is currently provided or that is required as a result of new enforcement obligations introduced by the Bill.

Despite what the Minister and her officials will claim, the licensing fee was originally proposed at a level of £50. However, following uproar from Committee members, that fee was

reduced to a more realistic level of £12.50, with exemptions for those on income support and for senior citizens. That might have been close to providing cover for the service, but the additional enforcement requirements will result in escalating costs for councils. For example, a licence will not be issued until a dog has been microchipped. That will require wardens to conduct checks on dogs to ensure that they have been chipped, and that will either require handling facilities at council premises or require wardens to undertake additional visits to examine dogs at owners' premises. Although the Minister and officials will claim that the fixed penalties will cover those additional costs, they do so with little evidence to prove their argument since the sourcing of those fixed penalties as revenue is a new concept introduced in the Bill. In addition, council officials have provided evidence that the number of exemptions to licensing being introduced may reduce the overall income below the current levels sourced from the £5 licence fee. The Committee has, therefore, recommended that the Minister and her Department consult council members to assess whether there are other revenue-raising sources that will allow for the discontinuation of the licensing regime.

The Department also originally proposed that the fixed penalty be set at £50. Members were aware that a similar regime was proposed in the Clean Neighbourhoods and Environment Bill, though it sets the level at £75 to allow councils to make abatement for prompt payment. Members agreed that, for consistency purposes, the same regime should be applied to this Bill. I am pleased that the Committee was able to get consensus on that matter with the Department.

Finally, I will refer to the amendment on Order-making powers. That amendment changes the process from negative resolution to the affirmative process for future subordinate legislation. Again, the Committee is content that that has been agreed to in this amendment as, in our opinion, it allows the House and the Committee a greater level of scrutiny. The Committee for Agriculture and Rural Development supports the amendments.

10.45 am

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I thank the Chairperson of the Committee and the Committee staff for guiding

us through the Committee Stage. I also thank the departmental officials and the Minister.

My comments will be pretty brief, because many of the controversial aspects will not be discussed today. We dealt with aspects of microchipping, licensing, banned breeds and responsible dog ownership. At the Bill's Final Stage, we will probably get a better input from Members. The councils have a considerable lead time for many elements of the legislation, and it is important that councils and officials continue to engage in delivering the change. A huge responsibility will be placed on councils, and that has to be widely recognised.

Given that a lot of extra powers are coming from the Assembly to local authorities, one of the main issues was the need not to put financial burdens on councils. I declare an interest as a councillor on Down District Council. It is important that we mitigate the huge financial burdens on councils.

One of the main aspects of this group of amendments is increasing the fixed penalty from £50 to £75. I welcome that because it is a good opportunity for councils to use a carrot-and-stick approach and to bring people with them on the journey. We want responsible dog ownership and, at times, it is hard to convince the general public about what we are trying to achieve. The upper limit for severe cases is a useful tool for council officials and enforcement officers.

A wider debate on fixed penalties is needed, and my vision is to have a sliding scale, where people's ability to pay is configured in the fixed penalty. Someone who earns a huge amount of money — an MLA, for example — will be better able to pay than someone who is on benefits. A £50 or £75 fine or fixed penalty is huge for people who live on around £55 a week. Such a fine would be a huge chunk of their disposable income, but, for a person who earns £100,000 or £200,000 a year, a fine of £75 is less of a disincentive; they would just pay it. That wider debate is not for today, but the fixed penalty will give greater flexibility to councils, so I welcome the amendment.

Mr Beggs: I declare an interest as a local councillor because, ultimately, the legislation will be enacted and worked on by local council officers, who will try to regulate dogs in each area. I suspect that the fact that some 9,000 stray and unwanted dogs were identified by

councils in 2009 and the associated problem of dog fouling, which is a big issue locally, are the reasons behind this attempt to increase regulation and give additional means of controlling dogs, as well as other aspects of public safety. An unacceptable number of dogs have had to be destroyed.

I read amendment Nos 1, 9, 11 and 12 as improving accountability to the Assembly, in that they widen the requirement for affirmative resolution, through which changes have to be brought to the House and approved, rather than the Minister's being able to introduce changes by negative resolution and the Assembly's having to pray within six months to overturn them. That is a welcome change.

Amendment No 8 enables councils to adopt fixed penalty notices on some occasions. That is another option for councils to consider. Fixed penalty notices can be brought in relatively quickly. They are also an efficient method of bringing about improvement at an early stage of that activity so that, hopefully, owners would adopt corrective action at a very early stage.

I have had occasion to provide evidence in court in other areas where fixed penalty notices have not been available, and I am aware of the huge amount of bureaucracy involved if an issue goes to court. It involves huge cost to the council and to the justice system. Therefore, the ability to use fixed penalty notices on occasions determined by councils and to have a low level of fine similar to that in the Clean Neighbourhoods and Environment Bill, which has been mentioned, is entirely appropriate.

As has been indicated, the fee could be retained by the council, but the biggest benefit would be the saving in council officers' time. They may be able to use much speedier means of addressing issues with owners whose behaviour is not as good as it should be. That improvement could be brought about without the involvement of the courts. If fixed penalty notices are not accepted, there is an option of going to court.

Mr Molloy: Does the Member agree that the idea of microchipping and the council being able to identify a dog can happen only if the dog warden can catch the dog? The fact that they have to put the scanner against the dog's body means that a lot of stray dogs will remain strays, because the idea that people have that a dog can be identified at a distance with a scanner is a bit of a myth. The problem will still

come down to the dog warden being able to catch the dog.

Mr Beggs: I will come to your point when I have finished talking about fixed penalty notices. Fixed penalty notices are an important tool in bringing about improvement in how the failings of dog owners are addressed. Hopefully, corrective action can be brought about without the involvement of courts and expensive bureaucracy. Therefore, it is that effective tool that I view as being the most important area and not the fact that fixed penalty notice fees would go to councils. If you were to count officers' time involved in any court action, you would quickly get a sense of where I am coming from.

Microchipping is widely recognised as being a good long-term method of identifying a dog. On occasions, tags fall off and dog owners become highly stressed if their dog goes missing. Therefore, I am sure that microchipping will provide a sense of security for any responsible owner who has lost their dog and wishes to find it again, as the dog will be more easily identified and can be brought back to them. Therefore, that aspect is to be welcomed.

I recognise that too many dogs are unlicensed, and anyone examining the detail of the Committee's hearings will see that tagging and microchipping were widely discussed to see whether there was a neat method of coming up with one system. However, until we reach the stage where councils decide not to license dogs at all, I do not see how we can move that way. There would need to be wider consultation on the issue and greater thought put into it before we take that drastic step, because it has its function. I am aware that that is what has happened in England and elsewhere, but we need to have that debate before we decide to remove our licensing system.

There is a need to ensure that there is better identification. The fact that dog breeders will be required to microchip their dogs in the future will increase the number of dogs whose owners can be easily identified. Right from the start, a dog will be identifiable. I expect that that will take time to build up. I suspect that there will be heightened activity to try to increase the number of licensed dogs. That work will largely fall to councils. I believe that the number of stray dogs has started to reduce. Neutering is playing an important role in that. Complex inter-relationships can work for and

against the identification of dogs when it comes to neutering. For example, will people come forward voluntarily to get their dogs neutered and microchipped? There is a huge question mark over whether they will. Nevertheless, on balance, a judgement had to be taken. The Assembly is going in the right direction at this time. In an ideal world, it might have been nice to do things differently. However, I support the direction of travel in the Bill and the amendments.

Dr Farry: I speak as a non-member of the Committee for Agriculture and Rural Development. However, I have considerable interest in the subject. Obviously, it is an important issue for the many dog lovers in Northern Ireland. Certainly, we all appreciate the importance of responsible dog ownership. We are also conscious of the importance of animal welfare issues and the avoidance of cruelty and difficult situations for dogs. There have been heavily publicised cases where things have gone badly wrong for dogs.

I want to comment particularly on issues that relate to licensing and fines, which are covered by the first group of amendments. It is important to stress that the primary purpose of a licence is to control and regulate dog ownership. Although revenue raising is important, it is probably secondary to that. There is clearly a problem with stray and unwanted dogs in Northern Ireland. It is worth commenting and reflecting on the fact that destruction figures here are much higher than in every other part of the United Kingdom. Indeed, in Northern Ireland, destruction figures vary massively among councils. It is important that the Assembly drill down and try to understand why that happens. There are lessons to be learned not only from elsewhere in the UK but from how one council deals with the issue differently from another. No one wants high numbers of dogs to be destroyed.

Dog ownership must be seen as a privilege rather than a right. Although it is important that the Assembly consider and reflect on the cost of a dog licence or microchip, if, indeed, it moves in that direction, that must also be considered as part of the annual and, indeed, lifetime investment required by dog ownership. The cost of a licence will easily be dwarfed by the amount of money that a dog owner will spend on, say, dog food. Obviously, the bigger the dog, the bigger the bill. The inoculations

that a dog should get will also cost money. Vets' fees can also be substantial. Therefore, lifetime investment in a dog can run into thousands of pounds at least. It is important that the Assembly consider licensing in that regard.

The most compelling point about licensing is that it is designed to maximise public knowledge about dog numbers, identification and owners. Therefore, if a lower licence fee can be helpful, that is certainly favourable. My party has perhaps gone further and suggested that it may even be better to consider, say, a £100, one-off cost for a dog licence, rather than to have an annual cost. That may be a cleaner administrative way to deal with licensing, and, indeed, it may produce a higher number of licensed dogs. My party colleague Trevor Lunn made that point at Second Stage.

11.00 am

I favour microchipping, because a microchip is much more modern than a licence and gives much more information. I noted with interest Mr Molloy's intervention on the need to catch the dogs. I am not aware of dog wardens having problems getting hold of a stray dog if they come across one. There are ways and means of doing those things. It is an art; in fact, it is a successful art for most of the dog wardens across Northern Ireland.

We also have to recognise that there is a financial aspect to the licence fee and that it is an important contribution towards council coffers. Our party is happy to support the amendment giving flexibility to councils over the level of fines. In the same light, the purpose of fines is to regulate behaviour and deter irresponsible dog ownership rather than to be a means of trying to raise revenue. Although we will want to encourage the maximum amount of licensing, we will, probably, want to minimise the level of fines that are imposed for unlicensed dogs, because if there is a high level of fines, it will mean that we are not being successful in ensuring that dogs are being registered.

I declare an interest as a member of North Down Borough Council. When commenting on the financial aspects of the issue, it is important to acknowledge that the revenue from licensing or fines will never cover the costs of providing dog wardens and investing in kennelling, regardless of whether those services are carried out by individual councils or collaboratively across

councils. A financial burden will, therefore, always fall on the ratepayers.

I was interested to hear the Committee Chairperson's opening remarks. He made comparisons with other legislation that is going through, such as the Clean Neighbourhoods and Environment Bill. We can also cite the example of the Welfare of Animals Bill, which is causing a degree of controversy between the Department and councils. I am not going to dwell on either of those Bills, because we are not discussing those today, but it is worth making a general point that arises out of this Bill and which is, perhaps, held in common with those other Bills. There is a need for better understanding between central government and local government over financial matters. In a simple sense, it does not matter whether the cost is being borne by the taxpayer and worked through the Assembly, or borne by the ratepayer through councils, so long as the public service is provided effectively and cost-effectively with the relevant level of efficiency.

In the real world, particularly in Northern Ireland today, there is an ongoing tension between councils and the Assembly. That is probably accentuated in this difficult financial climate. Councils feel that they are being asked to take on more and more responsibilities, without the resources coming down from the Assembly. In some respects, it is, perhaps, reasonable to shift that burden from taxpayers to ratepayers. However, the fear comes from the fact that we have an Assembly that is trying to run a very tight budget and, suddenly, councils are being given additional pressures and functions, and costs go up, with a resultant burden on rates. All of a sudden, fingers are being pointed at councils for being inefficient, because rate bills are going up, but the real reason for that is the passing over of additional functions. If there was a degree of confidence that there was not going to be such finger-pointing between different levels of government and a reflection that everyone was working in partnership, the path would be smoother for councils taking on greater responsibilities, regardless of whether those responsibilities relate to dog regulation, the more general welfare of animals or clean neighbourhoods. It is important that we bear that in mind as we look to other Bills and at this Bill as it goes through.

We are happy to support the amendments as they stand. They could have been a bit more

creative in respect of a one-off £100 fee, but it is important that we focus on the goal of maximising our understanding and knowledge of dog ownership and regulating that. If the amendments before us today represent the view that that is the most effective way of doing that, I am happy to give our party's support.

The Minister of Agriculture and Rural Development:

Go raibh míle maith agat, a LeasCheann Comhairle. By and large, the comments this morning recognised the great work that went into the Bill to make good legislation. One of the most productive meetings that we had was at the start of the process when, in order to ensure a good piece of legislation, we brought dog wardens from all 26 councils in to speak to us about their ideas and the challenges that they face.

Members have been broadly supportive of the Bill. Although most Members who spoke declared an interest as a member of a council, I have also had to ensure that we recognise that the dog warden service is one that we all, as ratepayers, hold dear. Were it not for the dog warden service, we would have far more problems with stray dogs and dog fouling. The Bill is an attempt to ensure that not only the licence fee but revenue from fixed penalties goes back into councils. Stephen Farry spoke at length about the relationship between central and local government. The Bill recognises the important role of local government and ensures that resources are made available to enable our dog wardens to provide an even better service than they do already.

By and large, the tone of the debate has been very good. Members spoke about the practical operation of a system of microchipping, the level of the dog licence fee and other issues. I am very glad that we have been able to reach agreement on the way forward on many issues, whether or not through the agreed amendments that we are debating today.

I do not want to labour any points. Willie Clarke came to the crux of the Bill when he spoke about responsible dog ownership. That is what we want. We want to change the culture of decades and ensure, as Stephen Farry pointed out, that owning a dog is a privilege, not a right, and that it comes with responsibilities. If we get a change in the behaviour of dog owners, we will see an improvement in the behaviour of dogs and what they are allowed to do and what they

are controlled in doing. We recognise the need for tools to be available to wardens to bring about responsible dog ownership.

The Chairperson made the point that the identity of dogs — being able to know where a dog belongs — is very important in recognising that the dog is a problem and being able to do something about it by going back to the owner. The legislation needs to do two things: identify problem dogs that need to be dealt with; and reunite a much-loved and valued pet with its owner, as Roy Beggs pointed out. Things go wrong; people leave gates open and dogs get out despite every precaution. It can be heartbreaking for an owner who does not know where their wee dog — their companion, their life perhaps — is or what has happened to it.

Microchipping will help to do both those things: identify the problems and unite owners with their loved pets. It is a tried-and-tested way of permanently identifying an animal, and it will make it easier for council dog wardens to identify and return stray dogs and hold irresponsible owners to account.

We have all worked very hard together on the Bill, and I would not dismiss any of the issues that arose concerning it. There has been a great deal of debate and discussion among Members on increasing the amount payable for fixed penalties under the Dogs Order to £50 and for councils to retain the money accrued from that. The licensing fee is also an issue. At the beginning of the process, the media focused on the cost of a dog licence; nobody considered the other important elements of the Bill. Having discussed it with the Committee, we ensured that we talked about all the elements of the Bill and that people were not distracted by one particular part of it.

So, I again thank the Chairperson and all members, and some who are not members, of the Committee for Agriculture and Rural Development. I am very grateful for the Committee's contribution to this and the other amendments that I have tabled. I call on Members to support the amendments in this group.

Question, That amendment No 1 be made, put and agreed to.

Clause 4, as amended, ordered to stand part of the Bill.

Clause 5 ordered to stand part of the Bill.

Clause 6 (Setting on or urging dog to attack)

Mr Deputy Speaker: We now come to the second group of amendments for debate. With amendment No 2, it will be convenient to debate amendment Nos 3 to 7, 10 and 13. These amendments deal with the control of dogs, including attacks on livestock, certain other animals and people. Amendment No 4 is consequential to amendment Nos 2 and 3. Amendment Nos 6 and 7 are consequential to amendment No 5, and amendment Nos 10 and 13 are consequential to amendment No 3.

The Minister of Agriculture and Rural

Development: Go raibh míle maith agat, a LeasCheann Comhairle. I beg to move amendment No 2: In page 4, leave out lines 16 to 31 and insert

“ Attacks on livestock and certain other animals

28.—(1) Any person who sets a dog on—

(a) any livestock, or

(b) any other animal owned by another person,

is guilty of an offence and liable on summary conviction to a fine not exceeding level 4 on the standard scale.

(2) If a dog—

(a) worries livestock, or

(b) attacks and injures any other animal owned by another person,

the keeper of the dog and, if it is in the charge of a person other than its keeper, that person is guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) This Article does not apply to a dog while being used—

(a) for police purposes;

(b) for such other purposes as the Department may by order specify.

(4) A person is not guilty of an offence under this Article by reason of anything done by the dog if at the material time—

(a) the livestock or other animal is trespassing on any land; and

(b) the dog is—

(i) kept by, or in the charge of, the occupier of that land; or

(ii) in the charge of a person authorised by the occupier to remove the livestock or other animal from that land.

(5) The keeper of a dog shall not be convicted of an offence under paragraph (2) if he shows that at the material time the dog was in the charge of some other person whom he reasonably believed to be a fit and proper person to be in charge of the dog.’”

The following amendments stood on the Marshalled List:

No 3: Leave out clause 7 and insert

“Attacks on persons

7. For Article 29 of the Dogs Order (attacks on persons and worrying livestock) substitute—

‘Attacks on persons

29.—(1) Any person who sets a dog on any other person is guilty of an offence or, if the dog injures the person attacked, an aggravated offence, under this paragraph.

(2) If a dog attacks any person, then—

(a) the keeper of the dog; and

(b) if it is in the charge of a person other than its keeper, that person,

is guilty of an offence or, if the dog injures the person attacked, an aggravated offence under this paragraph.

(3) A person guilty of an offence under paragraph (1) or (2) other than an aggravated offence is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or to both.

(4) A person guilty of an aggravated offence under paragraph (1) or (2) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) This Article does not apply to a dog while being used—

(a) for police purposes;

(b) for such other purposes as the Department may by order specify.

(6) A person is not guilty of an offence under this Article if at the material time—

(a) the person set on or attacked is trespassing on land; and

(b) the dog is—

(i) kept by, or in the charge of, the occupier of that land; or

(ii) in the charge of a person authorised by the occupier to remove that person from that land.

(7) The keeper of a dog shall not be convicted of an offence under paragraph (2) if he shows that at the material time the dog was in the charge of some other person whom he reasonably believed to be a fit and proper person to be in charge of the dog.’” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 4: In clause 8, page 5, line 11, leave out sub-paragraphs (c) and (d) and insert

“(c) Article 28(1) or (2) (dog attacking livestock or certain other animals); or

(d) Article 29(1) or (2) (dog attacking person).” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 5: In clause 8, page 6, line 12, at end insert

“(f) that the keeper, with the dog, attend and complete a specified course of training in the control of dogs before the end of the period of 6 months from the date on which the notice takes effect.

(2) In paragraph (1)(f) ‘specified’ means specified, or of a description specified, in the notice under Article 30A.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 6: In clause 8, page 6, line 30, leave out “30B(e)” and insert “30B(1)(e) or (f)”. — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 7: In clause 8, page 7, line 27, at end insert

“(9) If a control condition imposed by virtue of section 30B(1)(e) or (f) is complied with to the satisfaction of the council, the council shall—

(a) remove the condition from the notice served under Article 30A; or

(b) (if there are no other control conditions imposed by the notice) cancel the notice,

and shall notify the licence holder in writing of that fact.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 10: In schedule 1, page 11, line 6, at end insert

"2A. In Articles 25C(2)(a) and 33A(1) for '29(1A)' substitute '29'." — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

No 13: In schedule 2, page 11, line 21, at end insert

"The Dangerous Dogs *Article 4.*
(Northern Ireland) *Order*
Article 7(3) and (4)."

1991 (NI 21)

— [The Minister of Agriculture and Rural Development (Ms Gildernew).]

The Minister of Agriculture and Rural

Development: Amendment No 2 is the first of the group of amendments that substantially alter the Bill's proposals for changes to dog control here. This second group of amendments comprises amendment Nos 2 to 7, 10 and 13. Once again, I am grateful to the Chairperson and the Committee for their work and for their contribution to these amendments, which I am sure Members will also agree make for a better Bill and a more robust dog control system on the ground.

To begin with amendment No 2, during my review of dog control legislation, many people urged me to penalise irresponsible owners whose dogs attacked dogs owned by others. I consulted on such a proposal, and it received widespread support. However, the Committee proposed that the law should go further and extend that protection to all domestic animals, not just to dogs. I fully support that proposal. It recognises that such attacks frequently cause great distress to pet owners as well as great frustration when they find that no offence has been committed under existing dog control laws here. I am happy to bring forward amendment No 2, which affords that protection through a reworking of article 28 of the 1983 Dogs Order.

The original article 28 of the Dogs Order dealt with the offences of setting a dog on people and livestock. The new article 28 proposed by this amendment deals with setting on or attacking livestock and domestic animals. It provides that anyone who sets a dog on livestock or domestic animals will be liable to a fine of up to £2,500, and anyone whose dog worries livestock, or attacks and injures someone else's pet, will be liable to a maximum fine of £1,000.

While looking again at clauses 6 and 7 of the Bill, in order to incorporate the Committee's

proposal to extend the protection of the Dogs Order to all domestic animals, the opportunity was taken to address a few anomalies and inconsistencies in the Order's provisions on dog attack offences. Amendment No 3 substitutes for the original article 29 of the Dogs Order, which dealt with attacks on people and livestock, a new article dealing only with attacks on people. This provides that the maximum penalty for setting a dog on a person is now the same as that available in the case of a dog attack. Under the 1983 Dogs Order, the maximum penalty for setting a dog on a person was lower than that for simply owning a dog that happened to attack a person, or cause a person to fear being attacked.

Amendment Nos 4 and 10 are consequential to amendment Nos 2 and 3. They ensure that references to the offences dealt with in articles 28 and 29 of the Dogs Order now follow the restructured articles 28 and 29. Amendment No 13 makes certain changes to schedule 2 of the Bill, repealing minor provisions of the 1991 Dangerous Dogs Order, which the Bill supersedes.

In particular, it repeals provisions that made a dog attack in a public place a more serious offence than one on private property. Unfortunately, as the House is well aware, attacks in domestic settings can be devastating. The Bill's provisions on dog attacks no longer acknowledge any distinction in the gravity of offences based on where they take place.

11.15 am

I have already dealt with amendment No 4, which is consequential to amendments Nos 2 and 3.

Amendment No 5, along with amendment Nos 6 and 7, amends the Bill to make changes to the proposed system of control conditions. The introduction of control conditions is one of the key features of the Bill. If enacted, they will allow dog wardens to do more than just caution, issue a fixed penalty or, in the worst cases, prosecute irresponsible owners. Wardens will be able to require a dog to be controlled more responsibly by attaching one or more of a menu of conditions to its licence. The Bill introduces controls on dogs, regardless of breed, whose behaviour has shown that they are a risk.

The conditions listed in the Bill have been widely discussed, and they were supported by

stakeholders and Members. Some supporters of the measure, including the previous Committee Chairperson during debate on the Bill's Second Stage, argued that in some cases a warden might want to require that a dog and its owner receive training.

Amendment No 5, therefore, introduces a requirement to attend a training course as a possible control condition. More precisely, it introduces a requirement for the dog and its keeper to undergo training. Members will agree that, often, dog-related problems need to be addressed by improving the behaviour of the owner rather than that of the dog. The necessary training must be completed within six months of the date on which the condition was imposed.

Amendment No 6 provides that, in the event of an appeal against a notice that imposes a control condition that requires attendance at a course of training, notice shall not come into effect until the appeal has either been determined or abandoned.

Amendment No 7 provides that a control condition requiring attendance at a course of training shall be removed from the dog licence once it has been complied with to the satisfaction of the council.

As with all the other control conditions, failure to fulfil the terms of the condition is an offence that carries a maximum penalty of a fine at level 4 on the standard scale, which is £2,500. Of all the proposals in the Bill, the system of control conditions had the most widespread support from stakeholders and consultees.

The amendments increase the scope of development, which will be widely welcomed, and I urge Members to support them. Hopefully, the amendments will reduce the number of fatal dog attacks, examples of which we have seen across the water. If a dog is showing behavioural problems, the amendments will allow us to do something about it before it goes on to attack. That is something that the House is very keen on, so I urge Members to support the amendments.

The Chairperson of the Committee for Agriculture and Rural Development: As the Minister said, the amendments will introduce offences for attacks by dogs on people, other dogs and, of equal importance, other animals. Those controls are necessary as they directly

confront the heinous crime of dog fighting and give the legislative power to bring criminals involved in that despicable practice to justice. That is something that the Committee, and I have no doubt every Member, will want to support the Department and the PSNI in stopping.

However, when considering the Bill, the Committee believed that the clause was too restrictive and concentrated on setting or attacking another dog, a person or livestock. The Committee asked for that to be extended to include other domesticated animals, and I am pleased that that was agreed to by the Department.

This group of amendments will also introduce control conditions that can be applied to a dog licence. That will afford greater security and health and safety to the public and to other animals. However, there was an important aspect that the Committee wanted to change. The Committee was concerned that although the controls focus on the dog, much of the fault lay with the owner. The Committee therefore recommended that the keeper of the dog could be obliged to attend a training course. The Department has agreed to that amendment.

That will allow for the imposition of that condition on dog owners who continually allow their dogs to stray, and, therefore, may help to reduce the number of strays and the number of dogs that are euthanised each year in Northern Ireland. The Committee for Agriculture and Rural Development supports the amendments.

Mr W Clarke: Go raibh maith agat, a LeasCheann Comhairle. I welcome amendment No 2 to clause 6, which extends the offence of setting a dog on another dog, a person, or livestock to include other pets. The setting of dogs on cats and other animals, such as pet rabbits, can have a devastating impact on the owners of those pets. Very often, dogs are the main attackers of cats, and, although they are natural predators, it is outrageous to set a dog on a pet.

All Members will be aware of incidents in their constituencies in which a child's pet has been mauled by a dog owned by unscrupulous people. Large dogs have been set on cats that have no opportunity to escape. I know of a number of cases in which that happened to pet rabbits as well. Such incidents can have a massive impact on people's well-being, particularly that of young children. I am also aware of an incident in Castlewellan in which a number of dogs were set on a pet that belonged to an

elderly constituent who was dying of cancer. That incident had a devastating impact on that person's well-being in the final days of their life. In those situations, a £2,500 fine would not be enough.

I welcome the fact that the legislation is being extended. There has been talk that a £2,500 fine is draconian, but it is a disgusting thing for an irresponsible dog owner to set a dog on livestock, a pet, a child or an adult. The £2,500 fine may not be the proper amount, but it certainly goes a long way towards being a deterrent.

The introduction of control measures is very welcome, as has been outlined by the Minister of Agriculture and Rural Development and the Chairperson of the Committee for Agriculture and Rural Development. The issue of control has little to do with the dog, but centres on irresponsible dog owners who allow their dogs to run amok, be aggressive and attack people. I welcome amendment No 5, which allows council wardens to impose control conditions on an owner's licence. According to those conditions, the owner has to undertake training within a six-month period. That will lead to the building of better relationships between wardens and dog owners, including those who own a number of dogs, so that wardens can ensure responsible dog ownership. I welcome the amendments.

Mr Beggs: I support the amendments.

Originally, it was an offence to set a dog on another dog or a person. The Committee rightly identified that there are other animals and pets that could be set on by dogs belonging to irresponsible owners. That has been recognised in amendment No 2. During the Committee's discussions it was identified that there was a risk that a homeowner who was being burgled or attacked and who allowed his dog to drive off the criminals could be prosecuted. It is right that an exemption has been added to the Bill that covers incidents in which a person acts against a trespasser on private property. That exemption makes the Bill better, because it would be a gross injustice if, as a result of court action, a burglar ended up with a small penalty while a homeowner, who had been burgled, faced the penalty of imprisonment. It is appropriate and follows natural justice that the amendment is made.

Amendment No 3 is in a similar vein. I see amendment No 4 as a technical adjustment.

Amendment No 5 relates to a very important area. It was suggested by the Committee, and

I am pleased that the Minister has identified it as a useful tool. It sets an option whereby dog owners have to be trained. Therefore, instead of court action or issuing fixed penalty notices, appropriate training might be the best solution, which would lessen the likelihood of repeat offending. As others said, frequently, the dog may not be at fault, and there may be a need for additional training and interaction between owner and dog with additional levels of control possibly being required. I view this as a very important and lesser earlier intervention that will, I hope, correct inappropriate behaviour of dogs at that earlier stage and therefore lessen the future need for intervention by dog wardens and other statutory agencies.

Amendment No 6 is another technical amendment. It provides for an appeal mechanism if someone objects to a training requirement. Amendment No 7 indicates that, once training is complete, the issue is over with. However, unless other control mechanisms have been specified by councils at the time, there may be a need to retain such information on file for a period. It gives an option to councils, at the time of setting a training requirement, depending on the level of the original offence, to deem that the issue is not over and done with completely. In general, it will be over and done with, but councils have an option.

Amendment Nos 11 and 13 are technical adjustments. I support the proposed amendments.

Mr Burns: I declare an interest as a member of Antrim Borough Council.

When the Dogs (Amendment) Bill was first introduced to the Assembly in May 2010, little did anyone believe that it would turn out a number of contentious issues, especially given that Committee members agreed unanimously that amendments were required to the Dogs (Northern Ireland) Order 1983. The Order has not adequately dealt with all the problems caused, not only by dogs, but, in the main, by irresponsible dog owners. Some of the issues dragged on so long that there were times when, in the interests of progress, some members used the term "reluctantly agreed" in order to avoid further delay.

The main principle of the Dogs (Amendment) Bill is the microchipping of dogs to protect the public and animals from attack and to improve control by dog owners. There is no disagreement about the need for tremendous improvements

to be made to the Order to protect innocent people from out-of-control dogs. Some dogs are absolutely on the loose and no one knows who owns them. Microchipping will improve the situation greatly by introducing a means of tracing the ownership of the dog.

My original speech was probably more to do with the earlier amendments, but I support the amendments to the Dogs (Amendment) Bill to improve the safety of everyone as regards dogs.

Some dogs are beautiful pets. Their owners treasure them and they will not in any way attack anyone or cause interference. However, unfortunately, there are a few dog owners who do not abide by the rules and keep the dogs as vicious animals that wish to attack.

When the owners do not have those dogs under control, they put absolute fear into residents and into people who are in open parks or forests and see fierce dogs bounding towards them, out of control. It is an impossible job for council dog wardens to trace the owners of those dogs, but microchipping will help to improve that. I support the amendments.

11.30 am

Dr Farry: Before speaking on the second group of amendments, I declare an interest as a member of North Down Borough Council.

I warmly welcome the prospective strengthening of the regime. We need to be mindful of two particular situations. One is dog fighting, which is an absolutely heinous and barbaric practice. It is utterly beyond me how anyone gets any enjoyment from dog fighting and anything that we can do to crack down on it is extremely welcome.

We also have dog-on-dog attacks or, indeed, as we are now talking about, dog attacks on other animals. The law in Northern Ireland has had a major gap in that regard over the past number of years. We are all aware of well-publicised cases of pet dogs being mauled by other dogs, around which there is a sense of almost utter impunity. Indeed, there is a real sense of frustration among elected representatives due to the inability of councils and dog wardens to take action. The law simply does not provide for an answer to that.

There was a very well-publicised case only a few months ago in Ballywalter in the constituency of my colleague Kieran McCarthy. Those are the

cases that we read about in the newspapers and hear about on the radio and television, but there many other cases right across Northern Ireland daily. It is important that people who own dogs are able to keep their dogs under control, whether on or off a lead. Any owner should have 100% control over their dog and ensure that it does not inflict harm on anyone else.

I do, however, have a couple of reservations about how the amendments are worded. I hope that the Minister will address that in her response. I am slightly concerned about what comes across as a 100% defence in the case of a dog-on-dog attack or a dog attack on a person if the dog or person who is attacked is viewed to be trespassing on land. There needs to be some sense of proportionality. That is a very black-and-white approach, but there can be a whole host of prevailing circumstances. For example, a dog wandering on to land that is owned by someone else could be a quite benign incident. A person could be walking their dog through the countryside, keeping it under reasonable control, when that dog happens to wander on to someone else's land. The trespass may not cause any harm or threat, but my reading of the amendments is that, if that dog is attacked subsequently, the application of the law provides 100% exemption. I do not think that that meets the sense of natural justice.

Similarly, take Mr Beggs's scenario in which a person, a burglar perhaps, invades a home. Again, we have to have a sense of proportionality. The instinct is to want to see the maximum use of force against anyone who invades a home. That force may take the form of a householder using some sort of weapon against an intruder or setting a dog on an intruder. There may well be circumstances in which the courts deem that to be an appropriate response. However, I do not think that you can argue for a blanket exemption. There may be situations in which setting a dog on a person who is trespassing is an utterly disproportionate response.

Let me give one possible example: a person with Alzheimer's or dementia who has no sense of where they are could inadvertently go into a house where they pose no threat but in which they are trespassing. If they were, in turn, attacked by a dog or, even worse, if a dog were set on them, most reasonable people would view that as utterly wrong. However, my reading of the legislation is that such a situation would not be regulated. We need to reflect, perhaps at

Further Consideration Stage, on the aspects of and the exemptions to the law on trespass and to think through some of its subtleties rather than having what appears to be a black-and-white presentation.

Mr Gibson: As a sheep owner, I declare an interest and support the second group of amendments.

Dog ownership is, of course, cherished by millions. Dogs occupy a special place in the affections of many, and no other animal has the relationship with humans that they do. Nevertheless, dog ownership is not to be taken lightly. It is a serious business. The privilege of owning a dog comes with the responsibility of controlling it. Unfortunately, too often a minority fails to exercise adequate control over its dogs. Some even regard their dogs as chattels to be used and abused.

Many of us will recall the excellent documentary shown some time ago that lifted the lid on the murky world of dog fighting, which is an affront to any civilised society. Society is looking to the Assembly to take a lead on the control of that heinous offence. The amendments will increase public consciousness of just how seriously dog ownership should be taken.

Too many people ignore the potential of uncontrolled dogs. Like many sheep owners, I have been on the receiving end of uncontrolled dogs, and sheep mutilation caused by such dogs is not a pleasant sight. Sheep worrying is a control, welfare and economic issue. There have been occasions when the very livelihood of sheep keepers has been threatened because of uncontrolled dogs and the failure of certain dog owners to keep their dogs under control. Hopefully, the Bill will help to bring the annual ritual of sheep worrying to an end.

Dog ownership has many benefits: to an elderly person living alone, a dog brings companionship; to a blind person navigating a busy street, a dog brings direction and confidence; and to a shepherd on a bleak mountainside, a dog may be invaluable. However, the message must go out to the public that keeping dogs is a serious business, and the amendments will help to do that.

The Minister of Agriculture and Rural Development: Go raibh míle maith agat, a LeasCheann Comhairle. I thank the Members who contributed to the debate and the Chairman

of the Committee for Agriculture and Rural Development. It is clear from listening to comments made this morning that this group of amendments has the support of many Members in the House today.

I want to clarify the point that Stephen Farry made. People should not be penalised because a dog has been allowed to stray onto their land. We looked at that issue, and, a lot of the time, it is not black and white. If a dog strays onto somebody's land, the same controls would not be used. The difficulty that we have is that we are trying to get legislation that is common sense and works. As I said earlier, one thing that we had to change was the offence of a person being attacked on somebody else's land versus in their own home. There was a difference in the seriousness of that. However, in recent years, we have seen that children are attacked by dogs mostly in their own homes or those of their grandparents and by dogs that are owned by somebody in their family. If, for example, an uncle has a dog that has inappropriate strength and temperament and that dog has access to children in the home environment, we had to ensure that those attacks were seen in as serious a light as others. We have looked at all the detail of that to ensure that we get clear and useful legislation.

Issues came up around dogs attacking other domestic animals or pets. Many Members have alluded to the fact that we need to understand that those attacks frequently cause great distress to pet owners and, when they find that no actual offence has been committed, huge frustration. I have heard complaints from constituents, as I am sure that many Members have, that dog wardens cannot do anything because the legislation is not there. Therefore, I was very keen that we bring in legislation to enable dog wardens to do their job and to ensure that those offences are included.

It needs to be said that the legislation is not about penalising the natural behaviour of dogs. It is about discouraging and penalising irresponsible owners who fail to control their dogs. That distinction has to be made. We see dogs' natural behaviour, but owners know what is not acceptable in society and should not allow their dogs to be involved in behaviour that can cause risk to other people.

Obviously, there has been a lot of interest in these issues today. The whole point of dog

control legislation is to deter irresponsible or negligent dog ownership. I firmly believe that the law should allow for the robust punishment of owners whose negligence results in injury to other people. Therefore, setting the same maximum penalty for those offences allows the courts to take the specific circumstances of individual cases into account.

At this stage, I should say that this is about dog control for all dogs. Dog fighting is specifically covered in the Welfare of Animals Bill, which will see tighter controls and higher penalties for that. The Committee has been scrutinising that Bill, and I look forward to working with them on that and bringing that Bill through the Assembly.

I am grateful this morning for the opportunity to table the amendments, which, I believe, will make the Bill, as introduced, much more robust. The Executive Ministers have agreed to the changes that they made to the Bill, and I have tabled those at the request of, and in agreement with, the Committee for Agriculture and Rural Development. Therefore, I urge Members to support the amendments in this group and the Bill itself.

Question, That amendment No 2 be made, put and agreed to.

Clause 6, as amended, ordered to stand part of the Bill.

Clause 7 (Attack by dog on a person or another dog)

Amendment No 3 made: Leave out clause 7 and insert

“Attacks on persons

7. For Article 29 of the Dogs Order (attacks on persons and worrying livestock) substitute—

‘Attacks on persons

29.—(1) Any person who sets a dog on any other person is guilty of an offence or, if the dog injures the person attacked, an aggravated offence, under this paragraph.

(2) If a dog attacks any person, then—

(a) the keeper of the dog; and

(b) if it is in the charge of a person other than its keeper, that person,

is guilty of an offence or, if the dog injures the person attacked, an aggravated offence under this paragraph.

(3) A person guilty of an offence under paragraph (1) or (2) other than an aggravated offence is liable on summary conviction to imprisonment for a term not exceeding 6 months or a fine not exceeding level 5 on the standard scale or to both.

(4) A person guilty of an aggravated offence under paragraph (1) or (2) is liable—

(a) on summary conviction, to imprisonment for a term not exceeding 6 months or to a fine not exceeding the statutory maximum or to both;

(b) on conviction on indictment, to imprisonment for a term not exceeding two years or to a fine or to both.

(5) This Article does not apply to a dog while being used—

(a) for police purposes;

(b) for such other purposes as the Department may by order specify.

(6) A person is not guilty of an offence under this Article if at the material time—

(a) the person set on or attacked is trespassing on land; and

(b) the dog is—

(i) kept by, or in the charge of, the occupier of that land; or

(ii) in the charge of a person authorised by the occupier to remove that person from that land.

(7) The keeper of a dog shall not be convicted of an offence under paragraph (2) if he shows that at the material time the dog was in the charge of some other person whom he reasonably believed to be a fit and proper person to be in charge of the dog.’ — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Clause 7, as amended, ordered to stand part of the Bill.

Clause 8 (Control conditions on dog licences)

Mr Deputy Speaker: Amendment No 4 is consequential to amendment Nos 2 and 3, which have already been made.

Amendment No 4 made: In page 5, line 11, leave out sub-paragraphs (c) and (d) and insert

“(c) Article 28(1) or (2) (dog attacking livestock or certain other animals); or

(d) Article 29(1) or (2) (dog attacking person).” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Amendment No 5 made: In page 6, line 12, at end insert

“(f) that the keeper, with the dog, attend and complete a specified course of training in the control of dogs before the end of the period of 6 months from the date on which the notice takes effect.

(2) In paragraph (1)(f) ‘specified’ means specified, or of a description specified, in the notice under Article 30A.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Mr Deputy Speaker: Amendment No 6 is consequential to amendment No 5. Amendment No 5 has already been made.

Amendment No 6 made: In page 6, line 30, leave out “30B(e)” and insert “30B(1)(e) or (f)”. — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Mr Deputy Speaker: Amendment No 7 is consequential to amendment No 5. Amendment No 5 has already been made.

Amendment No 7 made: In page 7, line 27, at end insert

“(9) If a control condition imposed by virtue of section 30B(1)(e) or (f) is complied with to the satisfaction of the council, the council shall—

(a) remove the condition from the notice served under Article 30A; or

(b) (if there are no other control conditions imposed by the notice) cancel the notice,

and shall notify the licence holder in writing of that fact.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Clause 8, as amended, ordered to stand part of the Bill.

Clauses 9 to 13 ordered to stand part of the Bill.

Clause 14 (Amount of fixed penalty)

Amendment No 8 made: In page 9, line 26, leave out from “in pursuance” to end of line 32 and insert

“to a district council in pursuance of a notice under Article 36 in respect of an offence to which Articles 36 to 38 apply—

(a) is the amount specified by the district council; or

(b) if no amount is so specified, is £75.

(2) A district council may under paragraph (1)(a) specify different amounts in relation to different offences.

(3) A district council may make provision for treating a fixed penalty payable to that council in pursuance of a notice under Article 36 as having been paid if a lesser amount is paid before the end of a period specified by the council.

(4) The Department may by regulations make provision in connection with the powers conferred on district councils under paragraphs (1)(a) and (3).

(5) Regulations under paragraph (4) may (in particular)—

(a) require an amount specified under paragraph (1)(a) to fall within a range prescribed in the regulations;

(b) restrict the extent to which, and the circumstances in which, a district council can make provision under paragraph (3).

(6) The Department may by order substitute a different amount for the amount for the time being specified in paragraph (1)(b).’” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Clause 14, as amended, ordered to stand part of the Bill.

New Clause

Amendment No 9 made: After clause 14, insert the following new clause:

“Assembly control of orders made by Department

14A. *For Article 54 of the Dogs Order substitute—*

‘Orders

54.—*(1) Except as provided by paragraph (2), orders made by the Department under this Order are subject to negative resolution.*

(2) No order shall be made under Article 7(6), 8(4), 23(7)(b), 25(2)(f), 25(4), 25B(1), 28(3)(b), 29(5)(b), 33(3)(c), 35(2), 38(6) or 46 unless a draft of the order has been laid before, and approved by a resolution of, the Assembly.’” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

New clause ordered to stand part of the Bill.

Clauses 15 to 18 ordered to stand part of the Bill.

Schedule 1 (Minor and consequential amendments)

Mr Deputy Speaker: Amendment No 10 is consequential to amendment No 3, which has already been made.

Amendment No 10 made: In page 11, line 6, at end insert

“2A. In Articles 25C(2)(a) and 33A(1) for ‘29(1A)’ substitute ‘29’.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Mr Deputy Speaker: Amendment No 11 is consequential to amendment No 9, which has already been made.

Amendment No 11 made: In page 11, line 9, leave out paragraph (4). — *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Schedule 1, as amended, agreed to.

Schedule 2 (Repeals)

Mr Deputy Speaker: Amendment No 12 is consequential to amendment No 9, which has already been made.

Amendment No 12 made: In page 11, column 2, leave out lines 18 to 20 and insert

“In Article 8(4) the words ‘, subject to affirmative resolution’.

In Article 23(7)(b) the words ‘, subject to affirmative resolution,’.

In Article 25(4) the words ‘, subject to affirmative resolution,’.

In Article 25B(1) the words ‘, subject to affirmative resolution,’.

In Article 35(2) the words ‘subject to affirmative resolution,’.

In Article 46 the words ‘, subject to affirmative resolution,’.” — [The Minister of Agriculture and Rural Development (Ms Gildernew).]

Mr Deputy Speaker: Amendment No 13 is consequential to amendment No 3, which has already been made.

Amendment No 13 made: In page 11, line 21, at end insert

“The Dangerous Dogs Article 4.

(Northern Ireland) Order Article 7(3) and (4).”

1991 (NI 21)

— *[The Minister of Agriculture and Rural Development (Ms Gildernew).]*

Schedule 2, as amended, agreed to.

Long title agreed to.

Mr Deputy Speaker: That concludes the Consideration Stage of the Dogs (Amendment) Bill. The Bill stands referred to the Speaker.

Executive Committee Business

Construction Contracts (Amendment)

Bill: Final Stage

The Minister of Finance and Personnel

(Mr S Wilson): I beg to move

That the Construction Contracts (Amendment) Bill [NIA 16/09] do now pass.

The Questions on the amendments emptied the Public Gallery, and I do not know whether this Bill will bring people racing back in. Nevertheless, it is quite an important Bill as far as the construction industry is concerned.

I introduced the Bill, comprising nine clauses, to the Assembly on 26 April 2010, and the subsequent processes of scrutiny and debate have been extremely thorough and productive. I want to record my gratitude to the Committee Chairperson and former Chairperson, as well as the members of the Committee for Finance and Personnel, for the work that they undertook in considering the Bill. I also want to record my gratitude to all other Committees and to Members for their contributions at previous stages of the Bill's passage.

The Bill is an important and necessary piece of legislation. It addresses measures in the Construction Contracts (Northern Ireland) Order 1997 that were required to be improved. It will enable Northern Ireland to maintain parity with GB following legislative changes that have now been enacted at Westminster. It contains eight miscellaneous provisions requiring primary legislation. The provisions include measures to increase the transparency of the process and to improve payment practices in the construction industry.

The Bill allows for greater access to adjudication on the resolution of disputes about contracts. It will also help to facilitate contractors in exercising their right to suspend work when they have not been paid. It will not have any overall quantum effect on public expenditure in Northern Ireland.

No amendments were tabled at Consideration Stage, which I am sure Members were pleased to hear. I anticipate that Members who engaged in the legislative process will support the Bill as

it clears its Final Stage. Therefore, I commend the Bill to the House.

The Chairperson of the Committee for Finance and Personnel (Ms J McCann): Go raibh maith agat, a LeasCheann Comhairle. The Minister has highlighted the purpose of the Bill, so it is up to me to give the Committee's view on it. The reforms aim to further improve payment practices and to address restrictions on access to adjudication on contractual disputes in the construction industry.

The Committee actively examined the policy intentions behind the Bill at an early stage. It received briefings from Department of Finance and Personnel (DFP) officials in June 2008, prior to the public consultation on the draft proposals and the consultation outcome in September 2009. The Bill was introduced by the Minister of Finance and Personnel on 26 April 2010, and it was referred to the Committee on completion of its Second Stage on 17 May 2010. Following commencement of Committee Stage, a public notice was placed in the main newspapers on 19 May 2010, inviting written evidence on the Bill. The Committee also notified a number of key stakeholders that had responded to the Department's earlier consultations.

Given the pressure on its work programme, the Committee sought the Assembly's approval to extend the Committee Stage to 26 November 2010. However, I am pleased to report to the House that the Committee was able to complete its deliberations well within that time.

Although the Committee received no written evidence and no comments were made on any of the clauses after the Committee's public call for evidence, members sought clarification on the House of Lords judgement in the case of *Melville Dundas v Wimpey*. Committee members also requested more information on how reviews of the scheme for construction contracts might impact on the legislation. The scheme is a set of measures that are complementary to the Construction Contracts Order 1997, which, if amended, would require corresponding amendments to be made to the scheme. DFP officials advised members that it would be necessary to amend the scheme here before the Bill, once passed, could come into effect. The officials also informed the Committee that any proposed amendments would be subject to further consultation. That will take place once

agreement has been reached on the scheme in Britain.

During Committee Stage, members received assurances from DFP officials about the prompt payment of subcontractors. The Committee welcomed measures that are being introduced in conjunction with the Construction Industry Forum (CIF) through a revised code of practice for government construction clients and their supply chains. The code includes a fair payment charter. The Committee will examine further the issue of prompt payment before the end of the mandate. I emphasise that the Committee felt that that was a very important issue because although main contractors were receiving prompt payments, some of the subcontractors — perhaps the smaller ones — were not, and that was having an effect on some businesses.

I thank DFP officials for their positive engagement and the timely assistance that they provided to the Committee. I also thank Committee members for their time during the consideration of the Bill. On behalf of the Committee for Finance and Personnel, I formally support the Bill's Final Stage.

Mr O'Loan: I support the Bill, which has been well addressed in Committee, as the Chairperson said. I do not think that there are any significant concerns. Obviously, the construction sector is a very important part of our economy. It is also important to the public sector, because government is a major client on many occasions.

It is important that there is a good framework of law to facilitate the delivery of construction contracts, big and small. It is also important that there is a proper level of fairness between the client and the contractor.

12.00 pm

The matters that are presented in the Bill have been well tested, particularly through experience in Great Britain, which this proposed legislation follows. The response to the consultation was quite modest. I notice that there was broad agreement, although there was some divergence of opinion and some strongly expressed views. However, I believe that those have been taken on board and addressed through certain clauses.

The Bill states that construction contracts may still be enforced even if they are not in writing. That is a good provision and has received support. As the Minister said, there are clauses that ease the process of adjudication and give a

contractor the right to suspend work if payment is not made. Those are sound provisions. Taken as a whole, I am happy to support the Bill.

The Minister of Finance and Personnel: I thank the Members who contributed to the debate. It has been a short one, which is an indication that there is widespread agreement that the improvements are necessary, timely and address the issue.

The Chairperson of the Committee raised the issue of prompt payments to contractors, which is especially important as there is a lot of pressure on small and medium-sized firms in Northern Ireland. The Committee has drawn that issue to my attention in debates about procurement. For example, in reports on procurement, the emphasis has been on how we can ensure that the cash flow for small businesses comes through. The Bill provides for improvements in cash flow in respect of the presentation of payments that are due, enabling firms to remove their services from a scheme in which payments are not being made as they should and making adjudication cheaper and easier for firms that are in dispute to access.

This is a short but necessary piece of legislation. It will increase the transparency of the process. It will, as I said, improve payment practices. It consists of separate amendments that relate to various measures contained in the original Construction Contracts (Northern Ireland) Order 1997. By facilitating access to the process of adjudication, the Bill will allow disputes to be resolved without parties having to resort to more costly arbitration or litigation. However, we have to accept that there will be occasions when firms will have to go beyond adjudication and use the more costly ways of dealing with disputes. The legislation will not do away with that necessity in some cases in which disputes are complex and perhaps require going to court.

The measures will improve cash flow by improving the transparency of the procedures and removing ambiguity on issues of notices of payment. They are intended to resolve a number of the shortcomings that have been observed in the working of the originating legislation in GB and have been replicated here in the 1997 Order. The proposals relate to important issues and, if enacted, will provide real and practical benefit to the construction industry in Northern Ireland.

As Mr O'Loan pointed out, some people said that there should be no regulation and that

