



Northern Ireland  
Assembly

Committee for the Environment

# OFFICIAL REPORT (Hansard)

Environmental Better Regulation Bill: Arc21

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is particularly important that, as the better regulation programme and initiative goes forward, robust regulatory impact assessments accompany the various bits of legislation that will come in front of you. It is more a marker for the future than anything else.

Secondly, on clause 12 of the Bill, we simply offer, as an option for the Committee to consider, the introduction of the statutory code of practice that the Department will be obliged to introduce and whether the Assembly feels that there may well be a role for it in looking at that. It is not unprecedented. I think I quote an example in my response of where that extra democratic tier is added to the scrutiny in taking it forward, given that it is a fairly significant aspect. It may well be one that you will want to consider as a Committee. My supplementary comments are very much based on my preface about waste and resource management. As members will be acutely aware, in the waste sector there are criminal elements operating, which is well documented. That manifested itself in a particular incident in the north-west that was well documented. After that, the Mills report was produced, which mapped the way to deal with criminality. Indeed, the report mentioned the whole better regulation initiative, and it was right and proper to do so.

My comments on moving forward relate to two aspects that flowed from that. First, as the better regulation programme moves forward, it is important that those tasked with bringing it forward have the appropriate capacity to do so. By "capacity", I do not just mean funds and resources. Those are important, and I would not want to belittle them, but — Mills touches on this in his report — it is important that people with the appropriate skills, attributes and experience are in place. There are two aspects of this that, certainly in the short term, present significant challenges to those authorities. When I say "authorities", I particularly have in mind the Department, both at the policy development end of things and the regulatory end of things, including the staff who are on the front line. That needs to be looked at carefully. There will be some concerns that those challenges will not be met. Secondly, there is an aspect of the Mills report that is sometimes missed. As we move to address criminality, it will be important to establish within the whole resource management agenda the appropriate major significant regional infrastructure to deal with the waste, not just commercial and industrial waste but the waste that council deals with too. It has to deal with the whole spectrum of waste that is produced. That will be an important facet. If both those aspects are not addressed fully, there is potential for the risk to the measures taken to address criminality in waste to increase, which may impede progress on the Environmental Better Regulation Bill.

That concludes my brief contribution and the contribution of Arc21 to this debate. I am happy to answer any questions that members may have. I am well within my 10 minutes, Chair.

**The Chairperson (Ms Lo):** Yes. Thank you very much. You rightly pointed out the Mills report on the capacity in the Department to address illegal dumping. We have all seen Mobuoy and its effect, and we will have to engage ourselves in clearing it up. That is a very good point. Will the Bill enhance the regulatory regime? Is there anything that the Bill lacks?

**Mr Burnett:** I do not think that the Bill lacks anything. As members will appreciate, it is an enabling Bill and it enables us to take things forward. The legislation provisions that flow from the Bill will probably be more important in terms of detail in that regard. The regulatory impact assessments that follow the Bill will have to be particularly robust.

We are very supportive of the concept behind better regulation. I defy anybody to argue against it, as it makes absolute sense. However, it presents challenges, as I have already outlined, and it is incumbent on us all to address those challenges.

**Lord Morrow:** I do not want to sound contrary, but I think you asked whether the Bill would "enhance" things. Was that the word you used?

**The Chairperson (Ms Lo):** Who said that?

**Lord Morrow:** I thought you said it. I am being careful.

**The Chairperson (Ms Lo):** Do you mean how we can improve the Bill?

**Lord Morrow:** You asked —

**Mr Burnett:** Call me Ricky. Everybody calls me Ricky.

**Lord Morrow:** I thought you asked Ricky whether he thought that the Bill would "enhance". Bills seldom enhance anything, but there are two things that will enhance this: enforcement and compliance. If you do not have those two things, then no matter what you have, it will not work. I am not speaking against the Bill.

**Mr Burnett:** I appreciate that. It is a valid point. The Bill offers the foundation for taking these things forward. If you do not have the foundation, it is difficult to build on things. It enhances it in that respect; it gives a foundation on which one can build. As I said, the legislation that flows from the Bill once it passes is arguably more important.

**The Chairperson (Ms Lo):** The criticism in a lot of the responses majored on the lack of detail in the Bill. Some said that it is vague and is a kind of catch-all. Although the Bill says that it will simplify the mainstream things, we do not know whether it could be going the other way in future. There may be more regulations.

**Mr Burnett:** I think that there will be more regulations. The whole aspect of better regulation is not particular to Northern Ireland, of course; it is further down the road in England and Scotland. It is not peculiar to this Administration. The detail will come as the programme and initiative rolls out. As I said, that will be particularly important. It will be important to ensure that that is accompanied by robust regulatory impact assessments. As I said, the influence that that can have on making policy is sometimes underestimated.

**The Chairperson (Ms Lo):** But, you support streamlining regulations and making it simpler for businesses —

**Mr Burnett:** Yes. There are very rational and sound reasons why you would want to do that.

**The Chairperson (Ms Lo):** How would you answer the criticism that it may be dumbing down or reducing environmental protection if we have less regulation?

**Mr Burnett:** My answer is that there is no evidence at the moment that it will do that. If there is going to be any evidence, it may come in the detail of what will flow in that regard. I go back to what I was saying before: our view is that this is enabling legislation; it sets the foundation. Arguably, it could contain more detail, but that will come through. Those who criticise it should wait to see what comes through from the Department. We will scrutinise it and look at what is coming from the Department, and we will make our contribution. If it requires criticism that is, in our view, founded, we will give it, as we have done in the past, but, as regards this Bill, we remain very supportive of the objectives behind what it is trying to achieve.

**The Chairperson (Ms Lo):** I will ask you one more question. Earlier, we heard from an expert in the scrutiny of legislation. One of the things he said was that you could fine a big corporate company a massive amount of money — £5 million — and it could find that money easily but it would damage the company more if you brought it through the courts, because of the publicity that may damage its reputation. It may cause public outcry, and people might not use its products. As someone in business, what do you think about that?

**Mr Burnett:** You are asking me to comment on comments that I did not hear. That said, the general concept behind it is not unreasonable. There are two aspects. One is the reputational aspect, which a lot of big corporations find very important and significant. There is the fines element, and that is a matter for the judiciary. In our view, the level of penalties imposed so far are erring on the low side, and I think that the judiciary would benefit from looking at that and at increasing the penalties because they act as a deterrent when added to the reputational aspect.

There is a third aspect to it as well, and, again, I fall back on the waste and resource management side of things. Organisations with convictions may find it difficult to keep permissions or get the subsequent permissions that are needed to operate in the sector in which they want to operate. So, you have three aspects: the reputational aspect, the pecuniary fine aspect and the ability to continue to trade legally through the various regulatory regimes. Convictions are something that the regulators will take into account as they decide whether to allow someone to continue with the permission or to grant any new permissions to them.

**The Chairperson (Ms Lo):** There are no more questions. This is a quick session for us. Thank you very much. We have your written submission and we will look through that in detail. Thank you.