



Northern Ireland
Assembly

COMMITTEE FOR THE
ENVIRONMENT

OFFICIAL REPORT
(Hansard)

Wildlife and Natural Environment Bill

18 March 2010

NORTHERN IRELAND ASSEMBLY

**COMMITTEE FOR THE
ENVIRONMENT**

Wildlife and Natural Environment Bill

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Members present for all or part of the proceedings:

Ms Dolores Kelly (Chairperson)
Mr Cathal Boylan (Deputy Chairperson)
Mr Roy Beggs
Mr Jonathan Bell
Mr John Dallat
Mr David Ford
Mr Danny Kinahan
Mr Ian McCrea
Mr Daithí McKay
Mr Alastair Ross
Mr Peter Weir

Witnesses:

Mr Ken Bradley) Department of the Environment
Mr Paul Byrne)
Mr Mike Meharg)
Mr Chris Savage)

The Chairperson (Mrs D Kelly):

The PSNI's submission about the Bill has been provided in members' packs. Are members content to include that submission in the Committee's final report?

Members indicated assent.

The Chairperson:

Also included in the packs is a research paper on snare technology and snaring guidelines, as was requested at the meeting on 11 March. Members have also been provided with a copy of the clause-by-clause analysis table. Paul Byrne, Ken Bradley and Chris Savage from the Department will join us to take us through clauses 27 to 30 and will answer any queries that members may have.

Mr Ken Bradley (Department of the Environment):

Thank you very much for inviting us to the Committee this morning. Chris will start our session and we will perhaps ask Paul for clarification on some issues, such as areas of special scientific interest (ASSIs).

Mr Chris Savage (Department of the Environment):

Good morning. I apologise for Mike Meharg's absence. He has been delayed.

Clauses 27 to 30 propose amendments to the Environment (Northern Ireland) Order 2002 and are concerned with the declaration and protection management of ASSIs. I will try to place that in context for the Committee. We do not plan to undertake a major review of the Environment (Northern Ireland) Order 2002. The proposed amendments merely further enhance the existing framework. The Wildlife and Natural Environment Bill provides us with a legislative opportunity to make those amendments, which are largely an attempt to maintain parity with the recent changes that were made to the equivalent legislation in England and Wales.

The stakeholders raised specific concerns about certain clauses and some other more general points. I will address both as I go through each clause.

Clause 27 seeks to create two new offences. The first is about public bodies meeting their obligation to inform the Department of areas in which they are giving authorisation or consent to operations that are carried out by third parties. At the moment, if public bodies fail to meet that obligation, there is no sanction upon them. Therefore, we propose to close that loophole. The clause creates a second third-party offence that is designed to deter people from causing damage to ASSIs. That complements the existing offence in the Environment (Northern Ireland) Order 2002. In current cases in which damage is caused by a third party, the third party can be prosecuted only if they knew that what they were doing was causing damage to an ASSI. The new offence does not have the ignorance defence; hence, a lesser penalty applies.

The Chairperson:

If members have no comments on clause 27, we will move on to clause 28.

Mr C Savage:

Clause 28 concerns notification of change of ownership. The Department is seeking to place a requirement on owners and occupiers to notify the Department when there is a change of ownership or a change in the occupation of the land. The main concern that was raised by stakeholders was that the Department should seek to rely on the Land Registry system, rather than place the onus on owners or occupiers. Members should bear in mind that a declaration of an ASSI is subject to a statutory charge. The statutory charges regime would inform owners or occupiers of where that has changed, and perhaps their legal representatives would inform them of a charge on the land. However, that is quite different from them notifying the Department about the change. It is important that the Department is kept abreast of changes in ownership or occupation of any land so that new owners or occupiers are fully aware of their obligations under the Environment (Northern Ireland) Order 2002.

Mr Beggs:

If it is the duty of Land Registry to know who legally owns a piece of land, why is there a need for the Department to be advised of that? Can arrangements not be made with Land Registry so that the register is automatically updated without an additional layer of bureaucracy?

Mr Kinahan:

It is two or three years behind.

Mr Beggs:

Is that right?

Mr C Savage:

The Land Registry records are not always completely up to date.

Mr Beggs:

Why not?

Mr Kinahan:

It is because it does not have enough resources.

Mr Weir:

Land law in Northern Ireland can be complex in nature. There has been an attempt over the past 10 years to start to modernise it and try to bring portfolios up to date, but in many ways, land law still reflects a sort of neo-feudal type situation. By way of some of the changes being made, for example, the ability of people to buy out ground rent and therefore take the full legal title, it is not as straight forward as it appears.

Mr Beggs:

So, there are still no explanations given, but a reason why something else should be changed.

Mr Weir:

I see the feudal landlord nodding in agreement with me. *[Laughter.]*

The Chairperson:

One of the best ways to try to find out who owns the mosses is to try and cut turf on them. You will soon find out who owns them then. *[Laughter.]* Are there any other comments?

Mr Ford:

At the risk of extending Peter's point further, will the officials confirm whether that would extend literally as far as an 11-month conacre let, by way of notification having to be given?

Mr K Bradley:

No, it would not be on letting; it is purely on sale.

Mr Ford:

The term "occupier" might be taken by some to include —

The Chairperson:

We might need clarification in the guidance.

Mr Ford:

My understanding is that someone involved in conacre was an occupier, although clearly not the owner. That is why I am slightly concerned. If the Department is prepared to confirm that that does not apply, that is fair enough, but we need to be sure.

Mr Weir:

The question is about whether it refers to occupiers and does not include conacre. I assume that “occupier” includes someone with a long-term lease. That would mean that the ownership would not change but would have major alterations on that aspect. It may be worthwhile to add in a subclause for clarification or a definition of “occupier”.

Mr C Savage:

That is something that we can look at.

Mr Ford:

If a person is involved in conacre and the landowner is clearly in control of the land other than the day-to-day operations, that should be all that is required by the Department.

Mr Beggs:

There has to be no doubt. If it does not apply to conacre, that ought to be clearly defined rather than be left to a whim or subsequent changes. I prefer a clear understanding. Perhaps it could be dealt with by a ministerial statement on the Bill or whatever is appropriate so that there is no doubt that an additional layer of bureaucracy will not be placed on tenants.

Mr Kinahan:

If there were regular meetings with the stakeholders, in other words, the owners of the land plus all those involved, the issues would be resolved, because in talking to them, it would become clear that land is changing hands. There should be six-monthly, yearly or quarterly meetings to keep the information up to date.

Mr K Bradley:

That is sensible. Unfortunately, the problem gets worse as more sites are designated and more land is involved. A substantial area of Northern Ireland is designated, and that problem will be

exacerbated as more sites come on stream. Each year, 20 to 25 additional sites come on stream.

Mr Kinahan:

Each site should be subject to a meeting.

The Chairperson:

The overall point is that it is clearly not open to interpretation by an official.

Mr C Savage:

Clause 29 concerns giving the power to the Department to place notices and signs on land within an ASSI. Clearly, there may be occasions when it is necessary to do that to maybe warn people about certain operations that are not allowed on that land. For instance, on occasions, we have had to put warning signs up to deter peat-cutters. *[Laughter.]*

Mr Weir:

Does anyone have a guilty past that they want to confess to?

Mr C Savage:

The main concern that was expressed by stakeholders was that there could be biosecurity issues, and concerns were also raised about the police powers. The Department has standard operating procedures to mitigate any concerns about that.

One stakeholder recommended that we add additional wording, similar to that used in Scotland, to include words such as “take such other action as considered appropriate”. I do not believe that that is necessary. We are quite happy with the existing clause as it provides the power that we require and is something of a catch-all.

Clause 30 deals with the serving of notices and declarations. We want to change the process to ensure that there are no loopholes so that the legal effect of such notices will not be compromised. The main concern of stakeholders was that the Department should continue to be obligated to inform all landowners and occupiers, and that it should take all necessary steps to do so, for instance, by issuing advertisements in the press, sending out notices by registered first-class post and even putting signs up. We do not want any possible legal loophole that could compromise the declaration of a site or the effect of certain management notices.

The Chairperson:

If members have no comments or questions, we will move on.

Mr C Savage:

A number of general issues were raised about the proposal. Some stakeholders believe that certain aspects that are not included in the Bill should be. There was some concern that the initial policy proposals to introduce stop notices and reinstatement notices have not been included in the Bill. During the process of drafting the Bill, we became aware of developments in GB, where the Regulatory Enforcement and Sanctions Act 2008 has been introduced and there was a wide-ranging review of penalties and sanctions for environmental regimes.

The Department is proposing to prepare similar proposals for Northern Ireland. There will be a wide-ranging review with a view to introducing a wide-ranging and holistic regime of penalties and sanctions, which will apply to all major pieces of environmental legislation. We feel that it is important to await those developments, because they will introduce a more appropriate sanction regime and achieve a better balance for ASSIs between persuasion and sanction. We feel that, on balance, we should not pursue the options at this point, but should await that broad review. We do not believe that there would be a significant risk in the interim to the management and protection of our sites.

Mr Ford:

I can see why the Department might feel that that is a tidy way of doing things. Can you give us any predictions of the likely timescale to complete that process? Contrary to what you said, is there not the potential for danger if we leave the legislation on ASSIs lacking because of something that might take five or 10 years to do?

Mr Paul Byrne (Department of the Environment):

[Inaudible.]

Mr Ford:

I can repeat only that it may be two to three years, and smile and hope.

The Chairperson:

A cynic in the making.

Mr Ford:

Surely not.

Mr Bell:

Not “in the making” surely.

Mr C Savage:

One or two stakeholders felt that the overall duty on the Department to designate sites should include specifying the different reasons for doing that; for instance, sites should be representative of diversity in geographic arrangement of natural features. We are aware that Scotland has a similar legislative provision. However, the ASSI guidelines to which the Department operates

make several references to the need for ASSI assessments and selections to take into consideration the variety of scales; for instance, to enable the scientific importance of each site to be seen in its regional, national and international context.

Those principles underpin the declarations of ASSIs and have helped to underpin them since 1985. There is no need for it to be enshrined in legislation.

The Chairperson:

A witness and representatives from the Northern Ireland Biodiversity Group commented about sites of local nature conservation importance (SLNCI) and about legislative protection for such sites. What is the Department's view on that?

Mr Mike Meharg (Department of the Environment):

When the ASSI programme is carried out, the top sites are selected for statutory protection. However, we survey a lot of the sites and, although those that do not quite come up to the mark are important and useful, they have not reached the point of achieving statutory protection. A few years back, we decided to see whether another level of protection, outside the ASSI programme, could be afforded them. Local councils are involved through their biodiversity action plans, and they focus in on the sites of local nature conservation importance. Therefore, some action is carried out for those sites. Through the planning process and the area plans, the SLNCIs are endorsed as sites where there is a presumption against certain developments or they should be taken into account on hazard maps and so forth. From the outside, those sites were not seen as important enough to merit statutory protection, but they are afforded a level of protection.

The Chairperson:

Is there any redress available if the site is used or dumped on?

Mr Meharg:

Many of those sites are in public or private ownership. If they are in public ownership, we hope that the council or whomever owns the site will take appropriate action. If the site is in private ownership, we talk to the landowners and explain to them, through local biodiversity officers, that those sites are important. However, there is no statutory protection for them, because they did not meet those higher criteria.

The Chairperson:

You are such an optimist, Mike.

Mr Meharg:

There have been issues about the number of sites that were put forward as ASSIs, so there are two sides to that. If the site does not make the mark, the situation is as I outlined.

The Chairperson:

Am I correct to say that the Department is not considering any legislative protection for such sites?

Mr Meharg:

That is correct.

Mr C Savage:

It is difficult to see what mechanism could be applied to protect those sites.

Mr Beggs:

If no legislative protection is being planned, are there incentives for owners to sensitively manage

such sites? Are any environmental grants available?

Mr Meharg:

Within the grant-aid programme of the Northern Ireland Environment Agency selection criteria, a site of local nature conservation importance will receive a higher level of priority when grants are distributed.

Mr Dallat:

Presumably, these are not grants to drain them?

Mr Meharg:

No. These are grants to have the sites protected.

Mr Dallat:

I ask because that is what happened in the past.

The Chairperson:

It might be useful to liaise with other officials to consider applying more carrot, if there is no stick. Is that judgement to be made by the Department of Agriculture and Rural Development (DARD) or your Department?

Mr Meharg:

We make it.

The Chairperson:

It might be useful for the Department to take that on board.

Do any other members wish to ask questions about the issues that have been outlined in the tabled paper, or is there anything that the officials want to highlight?

Mr C Savage:

There are a number of other issues, including protection for sites of local nature conservation importance and hedge-cutting. We highlighted that the hedge-cutting season is not defined in the Wildlife (Northern Ireland) Order 1985 but in DARD's cross-compliance scheme. The Department has no strong view about whether to reduce the hedge-cutting season; however, if it was felt that it should be reduced, we would like to consult the relevant stakeholders. In the past, the Royal Society for the Protection of Birds (RSPB) successfully lobbied for the season to be extended to the end of August, so, in similar circumstances, consultation would have to take place. In any event, such decisions lie outside the Bill.

Mr Ford:

Did we receive further papers on that subject from the Ulster Farmers' Union (UFU)?

The Chairperson:

No, but we received papers from the RSPB.

Mr Ford:

We received contradictory papers from the RSPB.

The Chairperson:

Yes.

Mr Bell:

Is the badger vaccination programme just another issue that is being considered?

Mr Meharg:

Badgers are protected, and disease control is an issue for DARD rather than us.

Mr Bell:

Is that programme included in the submission just for information?

Mr Meharg:

We were simply putting forward stakeholders' views, but that issue is for DARD.

Mr Bell:

Should we pass that information to DARD?

The Committee Clerk:

We can do. It is included here to establish whether it is relevant to the Bill, and the advice is that it is not.

The Chairperson:

We could forward the information to DARD.

Mr Bell:

Incidentally, how is a badger vaccinated? Do they have to present their cubs before they are six-months old?

Mr Meharg:

They are vaccinated using medicated bait.

Mr Dallat:

How is wildlife shot at night? Do people blow them off fences?

Mr C Savage:

The legislation does not allow shooting at night. Some of the shooting interests wanted to be allowed to shoot during moonlight hours at certain times of the month, when there is a full moon. Many sporting interests want to shoot wildfowl under a full moon. It occurs in GB, but we have never allowed it here. The Department gave the matter some consideration but, from a conservation point of view, it is not a big issue. The greatest concerns would probably come from residents in areas in which night-time shooting might take place so, on balance, we decided not to propose such a change.

Mr Dallat:

That sounds like a very wise decision. Even considering it worries me.

Mr Kinahan:

I want to return to clause 29. The British Association for Shooting and Conservation (BASC) said that the new powers could be misused to frustrate lawful activity. If someone has shooting rights to land in an ASSI, are they allowed to exercise those rights so long as they follow the guidelines?

Mr K Bradley:

It depends on the ASSI's designation. If shooting is not detrimental to the feature, there should be no problem.

Mr Kinahan:

It may just be closed. I know of many families in England who hold massive shooting rights in Northern Ireland but, even though they are of value, they are in limbo. I was just wondering how that affects ASSIs.

Mr Byrne:

The nature of the ASSI feature determines whether shooting or keeping livestock is appropriate. In most instances, the ASSI, whether notifiable or upwards, will allow shooting to continue. Only in certain circumstances, for example, for certain birds, will restrictions be put in place.

Mr Beggs:

I raised this point before, but I am seeking clarification. It is proposed to reduce the close season for deer by changing the close date from 31 October to 30 September, yet in all other regions of the British Isles, the close date is either the 31 October or the 20 October.

Bearing in mind some of the latest evidence that we received from John Hetherington, who questioned the issue, why are we proposing to have a shorter closed season? I have not heard the argument as to why it has been brought forward to the end of September.

Mr C Savage:

In the previous discussion, we said that a reduction in the closed season is necessary to allow for proper deer management. The Bill proposes to bring forward the end date of the closed season by one month, to 30 September. However, following discussions with the key deer stakeholders, it was felt that we should make the reduction at the other end of the season. The consensus view was to delay the start of the closed season until 1 April. As I mentioned earlier, the Department

intends to propose an amendment to that effect.

The Chairperson:

That will be when the deer are in calf.

Mr Kinahan:

Yes, just before the deer have their young.

The Chairperson:

That would meet some of Mr Hetherington's needs, but at the other end.

Mr C Savage:

I did not get the impression that there was any concern about reducing the closed season. The concern related to which end should be changed.

The Chairperson:

I think that you dealt with that on Tuesday. We will come back to that during the formal clause-by-clause scrutiny.

Mr C Savage:

A couple of other amendments will not yet have been brought to the attention of the Committee. This winter, for the first time, the Department made a severe weather order, under powers in the Wildlife (Northern Ireland) Order 1985, to protect wildfowl. The extreme weather conditions prompted that move. That experience indicated one or two slight legislative changes that we would like to bring forward. For instance, we were not able to put woodcock and snipe into the order, because they are protected under the game laws. There is no provision for severe weather orders under the game laws, so we would like to make a change to allow those two species to be protected by them.

Article 29 of the Wildlife (Northern Ireland) Order 1985 states that we have to consult with district councils before making an order. The purpose of the severe weather order is to act quickly. There would not be time to consult with councils, so we are going to seek a slight amendment so that we will not have that requirement. A separate requirement in the Wildlife (Northern Ireland) Order 1985 requires us to liaise with the shooting interest, and that will remain. That is part of the protocol that the Department follows before making such an order.

The Chairperson:

Will those be included in existing clauses, or will you bring forward additional clauses?

Mr C Savage:

We will have to bring forward an additional clause.

The Chairperson:

We will have that in writing for next week.

Mr Beggs:

Is that an order or a question? *[Laughter.]*

The Chairperson:

He said yes. See what you can do.

Mr C Savage:

On Monday, we talked about schedules. Some stakeholders wanted Chinese water deer and roe deer to be added to schedule 9. The Department will propose to add them to that.

The Chairperson:

OK. That is useful.

Mr Ford:

On Monday, I raised the issue of the precise level of protection for the hare during the closed season, with regard to possession of hares. I understood that we would hear back from the Department. I am not as cynical as the Chairperson, so I presume that we will hear from the Department sometime soon.

Mr C Savage:

I can confirm that we have checked the Game Preservation (Amendment) Act (Northern Ireland) 2002 and the power within it to allow those special protection orders. It does not mention possession.

Mr Ford:

We knew that; what will we do about it?

Mr C Savage:

I think that we could commit to making an amendment.

Mr Ford:

Good gracious.

Mr Kinahan:

We are jumping about a bit. Did you say that the roe deer and the Chinese water deer will be protected?

Mr C Savage:

They will be placed on our list of invasive non-native species in schedule 9. We do not want people bringing them in and releasing them.

Mr Kinahan:

OK, so it is the opposite.

Mr K Bradley:

There are two additional legislative amendments to be considered in context with the Office of the Legislative Counsel. We will try our best to come back next week on those two.

The Chairperson:

That is fine; thank you.

We now move to the formal clause-by-clause consideration of the Bill. The officials may remain and answer questions, if so requested, but this is the work of the Committee.

The League Against Cruel Sports has provided the Committee with a tabled paper on the use of snares, which is additional information relating to clause 10. As that paper has not yet been published, members are asked to treat it in confidence. Members have also been provided with an updated version of the clause-by-clause analysis table, which is the tabled paper that we have just been considering, and a copy of the Bill. I intend to go through each of the 36 clauses and the three schedules one by one to seek the Committee's position on them. At this stage, members are giving only their views on the clauses as drafted. To date, no amendments have been made by the Department.

Clause 1 (Duty to conserve biodiversity)

The Chairperson:

The Department is considering amending clause 1(4) to replace “may” with “will” or “shall”. Are members content with the clause, subject to that amendment? I understand that the Committee would like such an amendment to be made. If the Committee wishes to see clause 1 amended, it cannot accept the clause as currently drafted.

In addition, the Department has said that although the definition of conserving includes the concepts of maintaining and protecting, it is considering amending the wording of clause 1(3) to include those terms. The guidance will specify that anyway, so the amendment will simply provide further clarity.

The Committee Clerk:

If members want those amendments to be made, they cannot accept the clause as drafted. We can come back to it next week, when we will hopefully have an amendment in writing from the Department. That might be the wisest course of action.

Mr Ford:

Can we formally accept the clause today, subject to the amendments to those two subsections?

The Committee Clerk:

Given that we do not have the Department’s amendments in front of us, the Committee can only make a recommendation.

Mr Ford:

Given that the Department has not managed to write the amendments, could we write them?

The Committee Clerk:

We could write an amendment and bring it to the Department. However, it would then be a Committee amendment, not a departmental amendment.

Mr Ford:

We are back here next week, so we can leave it until then.

The Chairperson:

Are members content to defer discussion on the clause until next week?

Mr Beggs:

I have made the point previously about a freshwater lake in Wales that is under threat from the rising sea level. Surely there would be an inordinate public expense involved in protecting or maintaining something like that. I have not heard a satisfactory explanation of how the inclusion of those words would impact on the Department's resources or those of other private or local authorities. I wish to be aware of that before we consider including the words "maintaining" and "protecting".

The Chairperson:

Will the Department answer that question now?

Mr C Savage:

I think that the answer lies in clause 1(1). The duty is meant to be consistent with the exercise of every public body's functions. We do not anticipate that they will have to go to huge lengths to meet that duty. They must do only what is consistent with their functions and scope.

Mr Kinahan:

Is it, therefore, better to leave out the terms "maintaining" and "protecting", because "conserving"

already covers those concepts?

Mr C Savage:

It is our view that conserving involves protecting and maintaining. We have said that we will be producing guidance that will explain those concepts. We do not have huge concerns about putting those terms in the legislation, subject to the draughtsman's agreement.

Mr Ford:

The logic was that if there is to be a certain explanation about what conserving includes, it is reasonable to include the terms "maintaining" and "protecting" as part of that explanation.

Mr Kinahan:

However, the other argument is that that would make the definition too strong, and would, therefore, add another unnecessary expense.

Mr Ford:

I thought that this Committee's function was to strengthen the protection of the environment.

Mr Kinahan:

Not always. *[Laughter.]*

The Chairperson:

That wording would meet some of the concerns of some of the environmental organisations.

Mr Beggs:

However, the resources are then available to the Department and other bodies.

Mr C Savage:

The purpose of clause 1(3) is not to provide a precise definition of “conserving”. The word “includes” is key to that clause. It is saying that in conserving, restoring and enhancing are included. It serves as a reminder.

The Chairperson:

That is a useful addition. We will defer consideration of clause 1 until we see the Department’s amendments.

Clause 1 referred for further consideration.

Clause 2 (The biodiversity strategy)

The Chairperson:

Is the Committee content with clause 2? Am I right in thinking that the Department is considering amending clause 2(4) to say that the Department will report every three years?

Mr Ford:

The amendment should read: no less than every five years.

Mr K Bradley:

That is Mr Ford’s amendment, which will be put forward.

Mr Ford:

If I have agreed with the Department, you have no mission.

Clause 2 referred for further consideration.

Clause 3 (Biodiversity lists)

The Chairperson:

It was requested that clause 3(3) be expanded to include “public bodies”. Does the Committee want to defer consideration of clause 3 until we see the Department’s amendments?

Mr Boylan:

Can we not agree the clause, subject to amendment?

Mr Kinahan:

I am sure than we can.

The Chairperson:

I would have thought that the insertion of “public bodies” would have been fairly straightforward. Will the Department include that?

Mr K Bradley:

The discussion arose because the biodiversity duty applies across the board to non-departmental public bodies and other public bodies, and not just to the DOE. Therefore, we would be content, subject to Office of the Legislative Counsel agreement, to include “public bodies”.

The Chairperson:

OK, members, the Department is quite clear that the clause includes other public bodies.

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

Clause 3 agreed to.

Clause 4 (Protection of nests of certain birds)

The Chairperson:

There will be further amendments to clause 4 to include other species. We will defer consideration until we see the amendment next week.

Clause 4 referred for further consideration.

Clause 5 (Offences: recklessness)

The Chairperson:

The Department has provided the Committee with a definition of recklessness. If members are content with that definition, I will put the Question.

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

Clause 5 agreed to.

Clauses 6 to 8 agreed to.

Clause 9 (Protection of basking sharks from disturbance)

The Chairperson:

The Department is considering amending clause 9(4)(a) to include both seal species.

Clause 9 referred for further consideration.

Clause 10 (Snares)

The Chairperson:

We now move to clause 10, on snares — I knew that there was a trap waiting for me. *[Laughter.]*

Would members consider suggesting amendments proposing an incremental process of licensing and increasing the inspection time from every 24 hours to every 12 hours?

Mr Kinahan:

Is that practical?

The Chairperson:

I do not know.

Mr Beggs:

If snares continue to be an option, they should be regulated and licensed.

Mr Boylan:

If we are going to go down that road, we will support regulating and licensing, but my party supports a total ban on snares.

The Chairperson:

Sinn Féin is opposed to the use of snares.

Mr McKay:

There is research before us today that we have not considered or read over. The decision should be deferred until we consider the matters arising.

Mr Ford:

I concur. What has been presented today leans the balance towards a total ban. Therefore, at the

very minimum, there should be a strict licensing regime.

The Chairperson:

Next week, there will be a discussion on whether we should support an outright ban or a regulated licensing scheme as a compromise. I would appreciate it if, where relevant, members give the Committee Clerk an indication of their party's stance. She could then bring us wording for amendments for a complete ban and a regulated licensing scheme, and Committee members can decide which they support next week.

Mr Dallat:

I am not up to date on this matter. I have my own feelings about snares, but, to be honest, I have not asked the party about its views. Is there still a whole range of traps, such as booby traps and bear traps, lurking about?

The Committee Clerk:

There are already some constraints on snares in the Wildlife (Northern Ireland) Order 1985, but the recommendation is that those are taken further. We have had quite a lot of information from stakeholders suggesting that it should go further still or, indeed, that there should be a complete ban. The Committee has been provided with further research and information from one particular stakeholder today, and that might help to inform the Committee's decision.

The Chairperson:

Members can read that information and take account of it next week.

Mr Boylan:

We requested more information, which we now have, and I think that we need some time to look over that.

Clause 10 referred for further consideration.

Clauses 11 to 13 agreed to.

Clause 14 (Licences under Article 18)

Mr Kinahan:

Have we left any room in the Bill to allow for a group licence, to fit how Talnotry Avian Care Trust works?

Mr Meharg:

We would prefer not to have group licences, because we have certain concerns about the long-term keeping of animals. Under the Wildlife (Northern Ireland) Order 1985 there is no licence requirement for anyone who wishes to take in an injured animal and release it into the wild when it recovers. That is a perfectly legal activity.

Mr Kinahan:

Then we shift to zoo legislation.

Mr Meharg:

The situation shifts towards zoo licensing if animals are being kept with a view to forming a collection for a charity or a business.

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

Clause 14 agreed to.

Clause 15 (Discharging firearms, etc. from vehicle)

The Chairperson:

We now move on to clause 15, on discharging firearms, etc from a vehicle.

Mr Beggs:

What is the party's view on that clause? *[Laughter.]*

The Chairperson:

Yes, what is Sinn Féin's view?

Mr Boylan:

Do I have to declare an interest? *[Laughter.]*

We should defer to Mr Kinahan; he knows a wee bit more about this area.

The Chairperson:

On the basis of the evidence from the deer farmers, who have asked that clause 15 be retained, are members content with the clause as drafted?

Mr Ford:

I thought that a considerable number of concerns were expressed when we discussed this last.

The Chairperson:

Yes, there were.

Mr Kinahan:

I thought that we were going to drop it.

Mr Beggs:

The evidence that was presented gave me the impression that the insertion of the words:

“when the vehicle is moving or when its engine is running”

allowed a person to discharge a weapon while the vehicle is stationary. The professional person who gave evidence about culling species indicated that he did not have a difficulty with the total ban. The banning of shooting from vehicles would make it more difficult for poachers to operate, because they could not use the defence that their vehicle was stopped when they shot. If that were the case, there should never be firing residue in a vehicle.

The Chairperson:

I should point out to members that the PSNI supported the inclusion of the clause.

Mr Beggs:

Is the PSNI aware of the other factors? Can we pass on that information to the PSNI?

The Chairperson:

We could defer our decision on clause 15.

Mr Boylan:

We should defer our decision. We heard from Mr Hetherington; we know that poaching is going on, and he is concerned about that. There seems to be some indecision among members.

Mr Dallat:

Are we talking about shooting the deer or shooting the poachers?

The Chairperson:

Let us hope that it is the deer.

Clause 15 referred for further consideration.

Clause 16 (Licences relating to deer)

The Chairperson:

Does the Department intend to table a further amendment to clause 16 in relation to roe deer and Chinese water deer?

Mr C Savage:

It is in connection with schedule 9.

The Chairperson:

It will not require any change to clause 16.

Mr C Savage:

No, not to clause 16.

Mr Kinahan:

I have one concern. DARD said that it is prepared to consider taking responsibility for deer licensing. My experience with DARD, through other matters that I am involved in, is that it is a very slow organisation. I am not sure whether the responsibility for deer licensing should be placed with DARD.

The Chairperson:

That is outside the scope of this legislation. We will seek further clarification on that matter.

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

Clause 16 agreed to.

Clauses 17 to 23 agreed to.

Clause 24 (Review of Schedules to the Wildlife Order)

The Chairperson:

The Committee supported proposals for five-yearly reviews. As the Department is prepared to do that, no amendment is necessary.

Mr K Bradley:

That is correct.

Mr Ford:

The Committee supports the clause but not the schedules to which it relates.

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

Clause 24 agreed to.

Clause 25 (Amendments to Schedules 1 to 9 to the Wildlife Order)

The Chairperson:

Are members content with clause 25 as drafted?

Mr Ford:

Can we be content with clause 25 if we are not content with schedule 1? Can we be content with a clause if we do not yet know the schedule to which it relates? Clause 24 concerns the principle behind the schedule but clause 25 concerns the schedule specifically.

The Chairperson:

Perhaps we can defer that and seek clarification?

Mr C Savage:

Mr Ford is correct. Members would have to be content with the content of the schedule before agreeing to the clause.

The Chairperson:

Thank you, Mr Ford. You must have been getting training.

Clause 25 referred for further consideration.

Clause 26 referred for further consideration.

Clause 27 agreed to.

Clause 28 (Notification of change of owner or occupier)

The Chairperson:

Are members content with clause 28 as drafted?

Mr Ford:

There is still a need for the clarification of “occupier”.

Clause 28 referred for further consideration.

Clauses 29 to 31 agreed to.

Clause 32 (Sale of game)

The Chairperson:

Are members content with clause 32?

Mr Ford:

Clause 32 is, presumably, where the Department may introduce the amendment about possession of hares.

The Chairperson:

Is the Department considering that?

Mr C Savage:

That would possibly require a separate clause, because it is not connected to the sale of game. However, it will be in the Bill.

The Chairperson:

OK. Therefore, we can anticipate a further clause.

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

Clause 32 agreed to.

Clauses 33 to 36 agreed to.

Schedule 1 (Amendments to schedules to the Wildlife Order)

The Chairperson:

We will move on to the schedules. I have been advised to go through, species by species, those that should be included. The golden plover is currently a quarry species. The Department is not minded to include the golden plover, but it is concerned about the numbers and will review that next time. Are members content with that approach?

Mr Weir:

Was the golden plover raised earlier in the week? Did departmental officials say that they were flexible on the golden plover, as they are on the curlew?

Mr C Savage:

The curlew —

Mr Weir:

I remember the curlew. You said that one species fell into a similar category as the curlew.

The Chairperson:

It was the whinchat, lapwing and redshank.

Mr Weir:

They were keen to shift in three species. They said that they were happy enough to have the curlew shifted in and that they would not lose a great deal of sleep if it was; there was a marginal decision. I am trying to remember whether the golden plover fell into the same position.

Mr C Savage:

It is a quarry species, similar to the curlew, but we have proposed taking it off the quarry list. The Committee asked for some up-to-date information on the population data of certain species, which the Department is sending. The golden plover is included in that.

The Chairperson:

We cannot defer that to next week, but we could ask the Committee Clerk to prepare a proposed amendment to include the golden plover, which will depend on the information that we receive from the Department. We will have a proposed amendment drafted, and we will consider the Department's paper.

The Department said that it will consider including an amendment to include the curlew. We will defer that matter to await that amendment. We will return to that issue next week.

The bullfinch and reed bunting are widespread and the former may cause damage to orchards. The Department did is not minded to include those species. The whinchat, lapwing and redshank are rare, and the Department will consider an amendment to include them. The Committee wishes to see that amendment. The number of ravens has increased, and the Department is not minded to include that species.

Some amendments are to come forward next week to schedule 2 to the Wildlife (Northern Ireland) Order 1985, so we will wait to see those amendments, one of which will be to remove the curlew. There is also a proposal to add the ruddy duck. The Department's view is that an

assessment of the impact of shooting on the status of all quarry species is expensive and would be best done at UK or EU level.

We need to consider removing the golden plover from that schedule as well. Again, the Committee Clerk will draft a proposed amendment and the Committee can decide next week whether to promote that amendment.

Schedule 1 will also amend schedule 4 to the Wildlife (Northern Ireland) Order 1985. The Northern Ireland system differs from the rest of the UK. In Northern Ireland, one third of license holders are subject to annual monitoring and inspection.

Mr Ford:

A point was made by the Northern Ireland Biodiversity Group about excluding all insectivorous birds. How suitable does the Department consider that?

Mr Meharg:

The concern was about the availability of food, and we understand that the supplies of mealworm or insectivorous food is readily available.

The Chairperson:

Schedule 1 also proposes to amend schedule 5 to the Wildlife (Northern Ireland) Order 1985. That schedule relates to the Irish hare. According to the Department, the population has stabilised, and the decline was due to habitat loss. Furthermore, the species action plan is on target. The Department is minded to continue with the current approach, which provides year-on-year protection. Do members wish to see that remain or —

Mr Ford:

If that remains the Department's position, I request the Committee Clerk prepares an amendment to include *lepus timidus hibernicus* in that list.

Mr I McCrea:

How does that translate?

Mr Ford:

It means "the Irish hare".

Mr Kinahan:

So that allows us both ways.

The Chairperson:

Yes. The Committee may well support and endorse that proposed amendment so that the hare be added to the list of protected species. Let us see what will happen next week.

According to the Department, there is no evidence of white, black or long-nosed skate in Northern Ireland waters. The common skate is known by different names, but only one Latin name. That is most fortuitous, I would have thought.

Bats are already protected under EU legislation.

Pollan is commercially fished in parts of Northern Ireland. The Department will need to explore that before adding to schedule 5.

All three species of lamprey have been found to be more common than expected. The Department has no intention of including those in the schedule, but will review that after five years.

Mr Ford:

Is the Department satisfied that it does not need to do anything but review the situation after five years as opposed to adding lamprey to the protected list and review that after five years?

Mr Meharg:

Under the water framework directive, there has been a new level of survey of fish species throughout Northern Ireland over the past few years. Up until then, only salmonids were recorded. Since recording other species, it seems that lamprey are much more widely spread than was thought. We feel, therefore, that that monitoring can carry on for the five years, and that it is best to review it at that stage. We do not feel that there is a need to put lamprey into the schedule, not because the numbers were low, but because we feel that they were under-recorded. Once recording started, we found higher than expected numbers. That suggests that they were under-recorded rather than their numbers being low.

Mr Ford:

It is, presumably, also possible that numbers fluctuate from year to year, as was suggested may happen with the Irish hare. Therefore, it may be appropriate to consider protection and do the monitoring for five years.

Mr Meharg:

We do not feel that there is not a requirement for that.

The Chairperson:

OK, there will be a review after five years.

The angel shark cannot be protected beyond six nautical miles because the EU common fisheries policy.

Mr Weir:

They can be protected within six nautical miles, but not beyond it.

The Chairperson:

Yes.

Mr Weir:

Do we put up signs or something? *[Laughter.]*

The Chairperson:

The Department is to provide numbers of species to support its position.

The bluebell will be added to schedule 8 to the Wildlife (Northern Ireland) Order 1985.

The purpose of amending schedule 9 is to identify highest risk species. The Department sees little gain in listing species that have become naturalised and widespread. That is where the Department was considering including deer, so an amendment is required.

Mr Kinahan:

Are there not two types of bluebell?

Mr C Savage:

There is the native bluebell and the Spanish bluebell. The Spanish bluebell is a non-native invasive species, which is causing some concern. Protection is being provided for the native bluebell.

Mr Kinahan:

There is one that we are trying to protect, and one that can be bought at garden centres.

Mr K Bradley:

The small Spanish bluebell can be bought at garden centres.

Mr Beggs:

Will that be dealt with as an invasive species?

Mr K Bradley:

No.

Schedule 1 referred for further consideration.

Schedule 2 (Amendments)

The Chairperson:

The Committee suggested that special protection orders should include “possession” as an offence, as well as taking and killing. We have dealt with that. Are members happy with schedule 2?

Mr Ford:

Not if that is where the further amendment to the Game Preservation Act (Northern Ireland) 1928 will go.

The Chairperson:

Is that where it will go? Was that about the hare?

Mr Ford:

It is aimed at amending the Game Preservation Act (Northern Ireland) 1928, which is mentioned at the start of schedule 2.

Mr C Savage:

Yes, it is likely to be mentioned there.

Schedule 2 referred for further consideration.

Schedule 3 agreed to.

Long title agreed to.

The Chairperson:

Thank you very much.

Mr K Bradley:

Thank you, Chairperson and members, for your time.

The Chairperson:

We hope to continue next Thursday.

Mr Boylan:

Before we go, I want to point out that the Irish hare will be an issue for next week's discussion and will be the subject of an amendment. A special protection order has been in place, year-in, year-out. We have been told that their numbers have stabilised, but we need to determine what the exact position is. The special protection order was made because the numbers of Irish hares had been low. If we agree the protection order, it will protect the species for five years. I would like to have as much information as possible before we make a decision on that issue either way.

The Chairperson:

Would a population graph that illustrates the measures that must be taken be of any help?

Mr Meharg:

We can provide a population graph. The 2010 survey is ongoing. I can try to find out how that information looks at the moment, but it would be unsubstantiated, because the survey is not yet complete. I will forward the 2010 data with a caveat.

The Chairperson:

That would be very helpful.

Mr K Bradley:

Special protection orders were introduced as a temporary measure to facilitate the species action plan for the Irish hare. The 2010 target is to increase the population from one hare to two hares per square kilometre. If the survey shows that the numbers are still stable, the Department will not propose any further special protection orders.

The Chairperson:

It would not propose any special protection orders at all? In that case, the Committee could consider the Department's proposal to remove it altogether, our proposed amendment to retain the special protection orders or a separate amendment.

Mr C Savage:

No. The decision is whether the protection order should go into schedule 5 to the Wildlife (Northern Ireland) Order 1985. The special protection order facility will always be there, but we feel that now is the time to make a decision. We hope that we will have no further need for special protection orders.

Mr K Bradley:

The special protection orders are only a temporary measure to allow a game species to recover. We took our position on the understanding that the Wildlife (Northern Ireland) Order 1985 would sort out the long-term protection needs for the Irish hare. As a game species, the Irish hare is protected during the closed season.

The Chairperson:

OK. You will come back to us next week with further information. Thank you very much.