



Northern Ireland  
Assembly

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**COMMITTEE FOR THE  
ENVIRONMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Clean Neighbourhoods and  
Environment Bill**

13 January 2011

**NORTHERN IRELAND ASSEMBLY**

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ENVIRONMENT**

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**Members present for all or part of the proceedings:**

Mr Cathal Boylan (Chairperson)  
Mr Patsy McGlone (Deputy Chairperson)  
Mr Thomas Buchanan  
Mr Willie Clarke  
Mr John Dallat  
Mr Alastair Ross  
Mr George Savage  
Mr Peter Weir  
Mr Brian Wilson

**Witnesses:**

Ms Helen Anderson     )     Department of the Environment  
Ms Hazel Bleeks        )  
Mr Robert Gray         )  
Mr Jackie Lambe        )

**The Chairperson (Mr Boylan):**

I welcome Robert Gray, Hazel Bleeks, Jackie Lambe and Helen Anderson. You are all very welcome.

I remind members that on 16 December the Committee agreed clauses 4, 7 and 22 subject to amendments making the regulations in those clauses to alter the level of fixed penalty fines subject to draft affirmative procedure. Those have been provided by the Department on 10 January. I advise members that I will go through and ask for the Committee's position on clauses 16 and 21 before formal consideration of the clauses in Part 4. Are members content that the proposed amendments to clauses 4, 7 and 22 meet the needs of the Committee?

*Members indicated assent.*

***Clause 16 (Litter offence: fixed penalty notice)***

**The Chairperson:**

We have to go back to two clauses that we passed over. I remind members that the Department has confirmed that the age of criminal responsibility at which fixed penalties can be issued is 10 and indicated that it will produce guidance for councils on issuing fines to minors. At the meeting on 16 December, members felt unable to come to a decision on the clause until they had seen examples of that guidance. The Department has provided details of guidance on fixed penalty notices to juveniles in England and Wales in its response to the issues raised under clause 28 in its second letter. It indicates that similar guidance will be issued to councils here. Do you have any other comments on that or are you content with what you have said?

**Mr Robert Gray (Department of the Environment):**

The guidance will be the starting point for us.

**The Chairperson:**

OK. It is over to the Committee. Do members have any comments?

**Mr W Clarke:**

As I said previously, I believe that criminalising young people through fixed penalties at the age of 11 is too young. It is as simple as that. I have not heard anything to change my mind.

**Mr Weir:**

I am similarly unaltered but on the other side of the fence.

**The Chairperson:**

I know that Mr Clarke has issues with this. Anyone who wishes to bring an amendment forward in the Chamber in respect of the age can do so.

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

*The Committee divided: Ayes 4; Noes 4.*

*AYES*

*Mr Buchanan; Mr Ross; Mr Savage; Mr Weir.*

*NOES*

*Mr Boylan; Mr W Clarke; Mr Dallat; Mr B Wilson.*

*Question accordingly negatived.*

*Clause 16 disagreed to.*

***Clause 21 (Controls on free distribution of printed matter)***

**The Chairperson:**

Trevor Clarke is not here. This is the issue about Crown land. For those who were not at the meeting, I remind members that, at the meeting on 16 December, the Committee deferred a decision on this clause until the Department provided an answer to queries on the clause's impact on Crown land. The departmental response is in the first letter, and it indicates that the power under this clause to control the free distribution of printed matter does not extend to Crown land but that, under existing law, councils can issue litter abatement notices to those responsible for Crown land to require litter to be cleared. I know that Trevor Clarke brought that issue up. I do not have an issue. Do any other members have comments?

**Mr Gray:**

The Department does not see it as a problem because there is legislation in place to deal with that.

**The Chairperson:**

OK. Legislation already exists to deal with that.

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

*Clause 21 agreed to.*

**The Chairperson:**

We will now go through clauses 26 to 76 and the four schedules one by one to seek the Committee's position on each. I will group the clauses where possible. I remind members that this is the last opportunity to discuss the clauses of the Bill and that decisions will be final. Part 4 is about graffiti and other defacement.

*Clause 26 (Penalty notices for graffiti and fly-posting)*

**The Chairperson:**

I remind members that, at the meeting on 9 December, the Department accepted that a different approach is needed to issuing fixed penalty notices to young people and that the provision of alternative sites for fly-posting was a matter for individual councils. One member felt that the clause needed to be amended to make it compulsory for councils to provide fly-posting sites, but most felt that it should remain optional, although, obviously, new ways to advertise should be encouraged. Members were otherwise content with the clause.

I advise members that the Department has since informed the Committee, in annex A of the letter dated 11 January, which was tabled today, that it intends to amend Part 4 to allow councils to deal more effectively with graffiti and fly-posting. The principal mechanism to achieve that is the inclusion of a new clause, which will be discussed later but which requires a consequential amendment to clause 26, replacing the word “obliteration” with “defacement”. Gentlemen, you may wish to take a quick look at the letter dated 11 January, which is in your tabled papers, and we will certainly welcome the new clause. Any new measures to try to address the situation are certainly welcome.

*Question*, That the Committee is content with the clause, subject to the amendment proposed by the Department to allow councils to deal more effectively with graffiti and fly-posting, *put and agreed to*.

*Clause 26, subject to the amendment proposed by the Department to allow councils to deal more effectively with graffiti and fly-posting, agreed to*.

**The Chairperson:**

Are members also content to make a recommendation in the Committee’s report that councils be encouraged to provide fly-posting sites? At the end of the day, that will only be a

recommendation. Are we agreed?

*Members indicated assent.*

***Clause 27 (Amount of penalty)***

**The Chairperson:**

At the meeting on 9 December, the Department agreed to amend clause 27 to make the power to alter the amount of fixed penalty subject to draft affirmative procedure. Members have been provided with a copy of the amendment. This is draft affirmative again. We have already discussed this, and we are happy enough.

*Question, That the Committee is content with the clause, subject to the amendment proposed by the Department to make the power to alter the amount of fixed penalty specified in the Bill subject to draft affirmative procedure, put and agreed to.*

*Clause 27, subject to the amendment proposed by the Department to make the power to alter the amount of fixed penalty specified in the Bill subject to draft affirmative procedure, agreed to.*

***Clause 28 (Penalty notices: power to require name and address)***

**The Chairperson:**

At the meeting on 9 December, the Department agreed to provide the Committee with an example of the guidance on how the Bill will deal with the issuing of notices to juveniles. Members have been provided with the Department's response, in annex A of the letter dated 5 January. It is the Department's intention to produce NI guidance based on 'Issuing Fixed Penalty Notices to Juveniles', already in force in England and Wales, after full consultation with relevant parties.

In addition to the specific guidance, the Department intends to bring forward detailed guidance for district councils on the use of fixed penalty notices. The aim of that guidance will be to explain some of the principles that underpin the appropriate use of local environmental fixed penalty notices: how their use should be planned and managed; on what basis they should be issued, and when they should not; and, importantly, how the non-payment of fixed penalty notices should be monitored, managed and dealt with.

It is also the Department's intention to include in that guidance a section that offers advice on the main issues and rules to consider and follow when using fixed penalty notice enforcement against young people under the age of 18. A draft of that proposed guidance will also be subject to full consultation with interested parties. Are we happy enough with the guidance? It is important that the guidance be sent fairly quickly and in tandem with the Bill's being implemented, and we want a commitment from the Department in respect of that.

**Mr Gray:**

Yes, in relation to all the guidance.

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

*Clause 28 agreed to.*

*Clauses 29 and 30 agreed to.*

*Clause 31 (Defacement removal notices)*

**The Chairperson:**

At the meeting on 9 December, members were content with clause 31. However, as with clause 26, the Department, in annex A of its tabled letter of 11 January, indicated that it is its intention to

make a consequential amendment to this clause as part of its intention to allow councils to deal more effectively with graffiti and fly-posting by replacing the word “flyer” with “placard”.

*Question, That the Committee is content with the clause, subject to the amendment proposed by the Department to allow councils to deal more effectively with graffiti and fly-posting, put and agreed to.*

*Clause 31, subject to the amendment proposed by the Department to allow councils to deal more effectively with graffiti and fly-posting, agreed to.*

*Clauses 32 to 35 agreed to.*

#### ***New Clause***

##### **The Chairperson:**

In its paper dated 11 January, the Department indicated its intention to strengthen Part 4 of the Bill to allow district councils to deal more effectively with graffiti and fly-posting. It intends to achieve that by inserting a new clause after clause 35, the details of which have been provided at annex A. Would you like to give us a brief overview of the new clause?

##### **Mr Gray:**

As you said, the Department has now forwarded all the amendments to Part 4. We feel that they address most of the concerns that were raised by the Committee and by those who gave evidence to the Committee, as set out in your analysis table. The Department is also satisfied that, under existing law, a district council can take prosecution action. The Department intends to make that clear in follow-up guidance.

##### **Ms Hazel Bleeks (Department of the Environment):**

Article 18 of the Local Government (Miscellaneous Provisions) (Northern Ireland) Order 1985

provides a district council with the power to remove or obliterate graffiti which is detrimental to the amenity of any land in its district or any illegally displayed placards or posters. It also enables the council, in certain circumstances, to recover the costs that it incurs in doing so. We sought to strengthen those powers further, and the amendments that will be incorporated in the new article 18, as substituted by new clause 35A, provide that in circumstances where a district council gives notice of its intention to remove or obliterate any graffiti, placard or poster, the period of notice is reduced from 14 days to two days to enable councils to act more quickly. The landowner or occupier, who, in all likelihood, is the victim of the graffiti or fly-posting, will not be responsible for the cost of removing it. Where possible, that cost will be borne by the person who committed the act of graffiti or fly-posting, or the person whose goods, trade, businesses or other concerns are publicised by it.

We also propose a new provision to ensure that compensation can be claimed by a person whose property is damaged by district councils exercising the power to remove or obliterate graffiti, placards or posters. Again, that will safeguard the property owner. However, we are making it clear that compensation cannot be paid to the person who displayed the graffiti, placard or poster, or caused it to be displayed. Any question of disputed compensation will be referred to and determined by the Lands Tribunal.

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

*New clause agreed to.*

### ***Clause 36 (Sale of aerosol paint to children)***

#### **The Chairperson:**

At the meeting on 9 December, departmental officials agreed to provide the Committee with the age limit on the sale of aerosols in Scotland and to consider amending the Bill to raise the age limit to 18. The Department's response is at annex B of the letter dated 5 January. It indicates

that the age specified in similar legislation is 16. However, on further consideration, the Minister has requested that the wording “under the age of 16”, as specified in clause 36, should be changed to “under the age of 18”. The Department will therefore bring forward an amendment to the Bill to give effect to that change and raise the age to 18. Are members content with that?

**Mr W Clarke:**

It is very welcome news. The age limit of 16 was criminalising young people in general. I welcome the movement, and it proves that consultation is sometimes listened to.

**Mr Dallat:**

Clause 36(2) says:

“In subsection (1) ‘aerosol paint container’ means a device which—

(a) contains paint stored under pressure, and

(b) is designed to permit the release of the paint as a spray.”

Increasingly, these materials are stored in containers with a pump that, when activated, has the same effect as an aerosol. Is that wording adequate to take account of that?

**Mr Gray:**

I will have to check that. It does say “under pressure”.

**Mr Dallat:**

Yes. A lot of those products are now not stored under pressure but can be released under pressure because they have a pump and a trigger. I would not want to see an outbreak of pump paint.

**The Chairperson:**

The Department can maybe come back with that response. However, this clause is to do with

raising the age for the sale of aerosols to 18.

**Mr Dallat:**

It might read “or be capable of being put under pressure” or something like that. It may be all right the way it is; I do not know.

**Mr Gray:**

It could be. That issue has not been raised before. We need to check that out. My understanding is that people press the button on the can of spray paint and that is it. I had not envisaged dealing with that situation. We need to look at that.

**Mr Weir:**

A valid point has been raised. I wonder about the wording. Clause 36(2)(b) says that it is a device that is:

“designed to permit the release of the paint as a spray.”

That is a slightly wider definition that may well cover the situation. Robert is going get back to us on that. It would be wrong to create a prohibition but leave some sort of practical loophole that leads to an issue about whether something is covered by it.

**Mr Gray:**

We will check that out.

**The Chairperson:**

It is clearly stated in the Bill. The word “and” suggests both as opposed to one or the other.

**Mr Weir:**

It is important to get this right. If we are seen to have fallen down on this, I do not want us to look like a bunch of aerosols.

**The Chairperson:**

Do not record that, please. Mr Dallat has raised a valid point, but I think that it is covered by clause 36(2) which says that “aerosol paint container” means a device that:

“(a) contains paint stored under pressure, and

(b) is designed to permit the release of the paint as a spray.”

That might cover it. Do you want to respond to that? It says “and”.

**Mr Gray:**

My initial view is that we cannot ignore the words “under pressure”. I need to take advice on that.

**The Chairperson:**

That could be amended at Consideration Stage if need be.

**Mr Gray:**

It could, or the guidance could make it absolutely clear that there is flexibility to cover other sorts of containers. I do not want to commit one way or the other until I get some sort of advice.

**The Chairperson:**

Mr Dallat has raised the issue, and I think that it can be addressed. I also think that we can agree the clause.

*Question, That the Committee is content with the clause, as amended by the Department to raise the limit below which it is illegal to sell aerosol paints to 18, put and agreed to.*

*Clause 36, as amended by the Department to raise the limit below which it is illegal to sell aerosol paints to 18, agreed to.*

***Clause 37 (Unlawful display of advertisements)***

**The Chairperson:**

At the meeting on 9 December, members were content with the clause but were concerned that councils were likely to experience difficulty in trying to disentangle fly-posting from wider advertising, which come under the control of the Planning Service and is poorly enforced. Members considered the possibility of including a recommendation in that regard. I think that we are content with that. The new clause in relation to allowing councils to deal more effectively with issues covers it.

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

*Clause 37 agreed to.*

**The Chairperson:**

If members are happy, we will make a recommendation that the Planning Service tightens up on the control of advertising to ensure that councils are able to implement the new fly-posting powers effectively. Are you happy for that recommendation to be made?

*Members indicated assent.*

***New Clause***

**The Chairperson:**

In its letter of 11 January, the Department indicated its intention to strengthen Part 4 of the Bill to improve information-gathering powers. It intends to achieve that by inserting a new clause after clause 37, the details of which have been provided at annex B. Would you like to give us a quick overview of that new clause?

**Ms Bleeks:**

Basically, the clause will provide district councils with the power to obtain any information that the council reasonably considers that it needs for the purposes of Part 4 of the Bill, which deals with graffiti and other defacement. Similar powers are already contained in article 20 of the Litter (Northern Ireland) Order 1994, and we understand that councils have found the power very useful, particularly when gathering evidence to enable them to take a prosecution. We were keen to ensure that they had that power in relation to graffiti and fly-posting as well.

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

*New clause agreed to.*

***Clause 38 (Power to make dog control orders)***

**The Chairperson:**

We will move on to Part 5 of the Bill, which is in relation to dogs. At its meeting on 9 December we were content enough with clauses 38 to 41.

**Mr Gray:**

We will just take an opportunity to say something here. The main development since the Committee last considered this is that the Department has brought forward a new information-gathering clause in relation to Part 5 which strengthens it. We also want to clarify something that was mentioned at a previous meeting in relation to the dogs issue.

**Ms Bleeks:**

I would like to take the opportunity to clarify something that was said at the Committee meeting in Limavady on 9 December in relation to clause 38, which concerns the power to make dog control orders. The Hansard transcript of that meeting was only received this week, and, having read through it, the Department is somewhat concerned that the Committee was given the impression that a dog control order specifying the maximum number of dogs that can be walked by one person could be applied on a case-by-case basis. That is not the position.

The correct position is that clause 38(3)(d) empowers the district council to make a dog control order specifying the maximum number of dogs that a person may take on to specified land. Prior to making a dog control order, the council must take into account the needs and views of all individuals concerned. However, if such an order is made, it will apply to anyone who takes dogs on to that specified land.

**The Chairperson:**

For clarification, I think that was the issue raised by the Kennel Club. Is that correct?

**Ms Bleeks:**

It was raised specifically in relation to professional dog walkers and greyhound owners — that type of thing. On reading through the Hansard transcript, it appeared that certain individuals could be exempt from a particular dog control order. What we are saying is that, once a dog control order is made in relation to specified land, it applies to everyone who goes on to that land, including professional dog walkers. However, prior to making the order, the council would have to consult with all individuals concerned and then decide whether it was appropriate to make the order. Obviously, the representations of professional dog walkers, the Kennel Club, etc, would be taken into account prior to making the order, and the council might decide that it was not appropriate for that land.

**The Chairperson:**

Obviously, it is still the discretion of the council to decide that. I am trying to remember the comments about that. It is still the council's discretion, and a key element of all that is proper consultation.

**Ms Bleeks:**

It is fair to say that all the Bill does is give the council the power to make dog control orders in relation to a number of different issues, one of which is specifying the maximum number of dogs. Following on from the Bill, there will be regulations to provide the detail of that and outline the procedures that councils have to follow before they can make a dog control order. One of those will specify that the council must consult.

**The Chairperson:**

That is fine.

**Mr Gray:**

The council may decide, having listened to the views of professional dog walkers and so on, to recommend that the maximum number of dogs on a particular area of land should be, for example, six or four. In other cases, the number might be smaller. It depends on the representations and so on that the council takes into account.

**The Chairperson:**

That is fine. However, I am saying that we need to give both parties — those people who may not wish to have people on their land and those people who are making a case — an opportunity. There must be a proper consultation process. The Kennel Club suggested that we establish a permit scheme to help us to regulate. Have we thought about that? Does that impact on what we are saying here, or are we still saying that we leave it to the discretion of councils as long as there is proper consultation and people have an opportunity?

**Ms Bleeks:**

It has to be down to the councils. The introduction of a permit scheme is viewed as overly cumbersome.

**Mr Ross:**

Effectively, this will allow councils to decide whether or not to impose the orders. Councils can choose not to. You mentioned exemptions at the start — could a local council introduce an order that creates exemptions?

**Ms Bleeks:**

That could be dealt with at the order-making stage. For example, when we look at the regulations that will flow from this, we will look at things like exemptions for assistance dogs. Obviously, if a council makes an order that excludes dogs from certain land, it will want to make exemptions for assistance dogs. Therefore, it is possible that professional dog walkers could be exempted through the detail of the order. The Bill merely gives the council the power to make those orders if it chooses to.

**Mr Ross:**

That is fair enough.

**The Chairperson:**

We need to be very careful to give those people the opportunity and ensure that the council looks at it properly. We will have to make a recommendation.

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

*Clause 38 agreed to.*

*Clauses 39 to 41 agreed to.*

**The Chairperson:**

I also ask that we make a recommendation in the report about the matter that has been highlighted today. Do members agree?

*Members indicated assent.*

***Clause 42 (Amount of fixed penalties)***

**The Chairperson:**

At the meeting on 9 December, the Department agreed to amend this clause to make the power to alter the amount of fixed penalties subject to draft affirmative procedure.

*Question, That the Committee is content with the clause, subject to the amendment proposed by the Department to make the power to alter the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, put and agreed to.*

*Clause 42, subject to the amendment proposed by the Department to make the power to alter the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, agreed to.*

*Clauses 43 and 44 agreed to.*

***New Clause***

**The Chairperson:**

As with Part 4, the Department indicated its intention to strengthen Part 5 of the Bill to give councils improved information-gathering powers. It intends to achieve that by inserting a new clause after clause 44, the details of which have been provided at annex B to the letter dated 11 January. Will you give a brief overview of the new clause for members' benefit?

**Ms Bleeks:**

It is really as before. It is exactly the same as new clause 37A and article 20 of the 1994 Order. It gives district councils the power to obtain any information that the council reasonably considers it needs for the purposes of Part 5 of the Bill. Again, we understand that councils will find this power very useful, particularly when gathering evidence to enable them to take a prosecution.

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

*New clause agreed to.*

*Clauses 45 to 49 agreed to.*

**Clause 50 (Amount of fixed penalty)**

**The Chairperson:**

At the meeting on 9 December 2010, the Department agreed to amend this clause to make the power to alter the amount of fixed penalty subject, once again, to draft affirmative procedure.

*Question, That the Committee is content with the clause, subject to the amendment proposed by the Department to make the power to alter the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, put and agreed to.*

*Clause 50, subject to the amendment proposed by the Department to make the power to alter*

*the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, agreed to.*

**The Chairperson:**

We will all know what affirmative procedure is when this is done.

*Clauses 51 and 52 agreed to.*

**Clause 53 (Power of entry)**

**The Chairperson:**

At our meeting on 9 December, departmental officials agreed to clarify the situation in regards to liability for damage to alarms caused by council officials. The Department's response is provided in annex C of the letter dated 5 January. It states that:

“Clause 55(9) of the Bill states that ‘nothing done by, or by a member of, a district council or by an officer of or another person authorised by a district council, if done in good faith ... is to subject the council or any of those persons personally to any action, liability, claim or demand’.”

That is very well put. Thank you very much. It continues:

“Council officers, and those authorised by a council, are therefore indemnified from any damage caused in exercising their powers of entry to silence an alarm, provided that action is exercised in good faith.”

Are members content with the Department's response?

*Members indicated assent.*

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

*Clause 53 agreed to.*

*Clauses 54 to 57 agreed to.*

***Clause 58 (Noise offences: fixed penalty notices)***

**The Chairperson:**

At the meeting on 9 December, the Department agreed to amend the clause to make the power to alter the amount of fixed penalty subject to draft affirmative procedure. We are content with the Department's response.

*Question,* That the Committee is content with the clause, subject to the amendment proposed by the Department to make the power to alter the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, *put and agreed to.*

*Clause 58, subject to the amendment proposed by the Department to make the power to alter the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, agreed to.*

*Clause 59 agreed to.*

***Clause 60 (Statutory nuisances)***

**The Chairperson:**

At the meeting on 9 December, the Department agreed to consider an amendment in relation to noise from illegal motorsports tracks. The Department's response is at annex D of the letter dated 5 January. The Department states that the improved procedures for dealing with statutory nuisance that are brought about by Part 7 will enable councils to deal more effectively with noise that is emitted from land that is prejudicial to health or a nuisance. Accordingly, the Department is of the view that an amendment in relation to noise from illegal motorsports tracks is not required as the situation is already adequately covered by the Bill. Trevor Clarke raised this issue. Are members content with the Department's response?

*Members indicated assent.*

**The Chairperson:**

At the meeting on 9 December, members also asked for clarification of clause 60(1)(l) as we were concerned that it might be used to impede the natural progression of water systems. Again, Trevor Clarke raised this issue. The Department's response is provided at annex E of the letter dated 5 January, and states that English case law has established that the range of potential recipients of abatement notices under the provision are subject to an important limitation. Where a natural watercourse becomes silted up by natural causes and causes a nuisance by flooding, the landowner is unlikely to be held liable under the provision. By contrast, if a watercourse is created or substantially altered by humankind, the landowner or occupier is responsible for its design, construction and maintenance and may be in default in respect of their inadequacies. Are members content with the response in relation to watercourses?

*Members indicated assent.*

**The Chairperson:**

In addition, on 9 December, when members considered clause 65, they asked the Department to consider extending the definition of "owner" in clause 65 to the rest of the Bill, as was requested by the Local Government Association and several individual councils. The Department agreed to consider that, and in annex C of its response dated 11 January it proposes two amendments to the clause that will expand the definition of "owner" to the whole of Part 7. I think that we are happy enough with that response.

*Question, That the Committee is content with the clause, subject to the amendments proposed by the Department to expand the definition of "owner" in clause 65 to the whole of Part 7, put and agreed to.*

*Clause 60, subject to the amendments proposed by the Department to expand the definition of “owner” in clause 65 to the whole of Part 7, agreed to.*

***Clause 61 (Duty of district council to inspect for statutory nuisance)***

**The Chairperson:**

At the meeting on 9 December, the Department agreed to consider an amendment in relation to the inclusion of pigeons. The Department’s response, at annex F of the letter dated 5 January, states that it considers that the existing powers that are available to councils in clause 60(1)(a):

“any premises in such a state as to be prejudicial to health or a nuisance”

and clause 60(1)(e):

“any accumulation or deposit which is prejudicial to health or a nuisance”

are sufficient to allow councils to serve an abatement notice where there are problems associated with pigeons. Are members content with the response?

*Members indicated assent.*

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

*Clause 61 agreed to.*

*Clauses 62 to 64 agreed to.*

***Clause 65 (Expenses recoverable from owner to be a charge on premises)***

**The Chairperson:**

As mentioned previously at clause 60, the Committee requested the expansion of the definition of

“owner” in this clause to the whole of the Bill, and members have a copy of the response. The Department has proposed amendments that will apply the definition to the whole of Part 7, which includes an amendment to the clause. Are members content with the Department’s response?

*Members indicated assent.*

*Question, That the Committee is content with the clause, subject to the amendments proposed by the Department to expand the definition of “owner” in this clause to the whole of Part 7, put and agreed to.*

*Clause 65, subject to the amendments proposed by the Department to expand the definition of “owner” in this clause to the whole of Part 7, agreed to.*

*Clauses 66 to 71 agreed to.*

#### ***Clause 72 (Regulations and orders)***

##### **The Chairperson:**

At the meeting on 9 December, the Department agreed to amend the clause to ensure that the powers, once again, become subject to draft affirmative procedure.

*Question, That the Committee is content with the clause, subject to the amendment proposed by the Department to make the powers to alter the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, put and agreed to.*

*Clause 72, subject to the amendment proposed by the Department to make the powers to alter the amount of fixed penalty specified on the face of the Bill subject to draft affirmative procedure, agreed to.*

*Clauses 73 to 76 agreed to.*

*Schedules 1 to 4 agreed to.*

*Long title agreed to.*

**The Chairperson:**

That concludes the formal clause-by-clause consideration of the Clean Neighbourhoods and Environment Bill. A report will be brought back to the Committee in the next couple of weeks with the recommendations that we agreed on the clauses. Thank you very much. I have no doubt that we will see you again, and I take this opportunity to wish you a happy new year.

**Mr Gray:**

Thank you.