



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Scrap Metal Dealers Bill:
Informal Clause-by-clause Consideration

4 February 2016

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Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Mrs Pam Cameron (Deputy Chairperson)
Mr Cathal Boylan
Mr William Irwin
Mr Alban Maginness
Mr Barry McElduff
Mr Ian Milne
Mr George Robinson

The Chairperson (Ms Lo): Given that time is limited for the Committee's scrutiny of the amendments, it may be worthwhile today to have a session on the policy proposals suggested by the Department to ascertain whether the Committee wishes to receive additional information or consider amendments if particular issues are not being addressed. Members will also wish to reflect on the other evidence that the Committee has received as part of its scrutiny of the Bill. That is included in the papers in the memo from the Clerk. All the written submissions and the clause-by-clause table are in the Bill folder. They are available on your tablets as well. The session will be recorded by Hansard.

I will just go through every clause quickly and ask members whether they are content or need further information. Are members content for me to go through the Bill quickly clause by clause?

Members indicated assent.

The Chairperson (Ms Lo): Members, are you content for me to group clauses 1 to 6 and schedule 1?

Members indicated assent.

The Chairperson (Ms Lo): Clauses 1 to 6 and schedule 1 relate to the licensing of scrap metal dealers. Last week, we were told by officials that the Department intended to remove clauses 1 to 6 and schedule 1 from the Bill and that it would include specific registration and licensing requirements by way of the waste management licensing regime. Members, are you content with the policy intention of the Department to remove clauses 1 to 6 and schedule 1?

Members indicated assent.

The Chairperson (Ms Lo): I think that that makes sense. Do members want to ask the Bill sponsor to consider an amendment to the clauses or instruct the Bill Office to draft an amendment ourselves? Not really. OK.

Members, you are all aware of the clauses. To save time, do you want to wait until next Tuesday, rather than have me read this out clause by clause? Can you say today whether there is any other information that you might want from officials next week? Are you happy for me to go through it clause by clause? How do you feel?

Mrs Cameron: It might be better to wait until Tuesday.

The Chairperson (Ms Lo): In the meantime, can you tell us today whether there is anything else that you want the Department to bring forward next Tuesday?

Mrs Cameron: Chair, I do not know. This is going back and forward, toing and froing, in my head. The more we hear about the waste management licensing stuff, the more I wonder whether it is all too much. "I do not know" is the answer to my own question. Is it all too much? Are we going to overburden the industry? We are not sure of that either. We have not really heard yet from the scrap metal dealers, so I am a bit concerned. I think that you know what I am trying to say, Chair. I am not sure if there is too much in the pot here at this time. "I do not really know" is the answer to that.

The Chairperson (Ms Lo): In fact, so much of the Bill will be taken out anyway. The licensing bit and the cashless transactions will be taken out of the Bill. Cathal, do you want to come in?

Mr Boylan: Yes, Chair. I apologise for missing the meeting last week. I find myself sitting here thinking about the fact that this is a 21-clause Bill, and you are talking about removing the first six clauses already. I agree that we need to settle down and get some information. Can everyone do next Tuesday and deal with it then? I would prefer that, because I need to go through all the suggestions that the Department is making.

The Chairperson (Ms Lo): So do you want me to continue to read out every clause or skip that?

Mr Boylan: Can it wait until Tuesday?

The Committee Clerk: Obviously, because we do not have the amendments, it would be useful at today's session to get an indication from members of whether there is additional information that you want on each of the clauses so that we can have that for consideration on Tuesday. The Chair might have some suggestions, but members may have their own as well. Would it be worth going through the clauses to see whether you need more information?

Mr Boylan: We will pursue it that way.

The Chairperson (Ms Lo): We will do it quickly. I will let the Clerk go through it.

The Committee Clerk: Clause 7 and schedule 2 relate to the closure of unlicensed sites. The Department advised the Committee that it intends to retain clause 7, although schedule 2 will be amended. The Committee might want to ask for more detail on that, in particular to ascertain what resolutions any regulations made under schedule 2 would be subject to.

The Chairperson (Ms Lo): Fine. Happy with that?

The Committee Clerk: Are members content to request that information?

Members indicated assent.

The Committee Clerk: Clause 8 relates to the display of licences. Do members want any information that might help them in their consideration of that clause, or are they content to await what the Department brings forward? It is going to bring forward some technical amendments to fit within the waste management licensing regime.

The Chairperson (Ms Lo): We want to know whether it can do that without this Bill. I think it said that it would like to have all this right across the board for waste management sites. Can it do that within the existing regulations without adopting clause 8?

Mr Boylan: I take it that this is about on-site licences? It is not the same issue that we talked about on-screen —

The Chairperson (Ms Lo): It is about display — having something on the wall.

Mr Boylan: I know that a lot of businesses display a licence anyway. Obviously, we would prefer to get clarification from the officials of exactly what exists at the moment.

The Committee Clerk: They advised on Tuesday that they wanted to extend it to all waste, so it will not just be for scrap metal dealers.

Mr Boylan: OK.

The Chairperson (Ms Lo): So they can do it with existing legislation without having to adopt clause 8.

The Committee Clerk: Clause 9 relates to the verification of the supplier's identity. The Department intends to bring forward technical amendments, but it will look at whether that can be extended to acceptable means of proof of address, where required. Do members want any additional information on that clause? Are you content to await the amendment?

Members indicated assent.

The Committee Clerk: Clause 10 relates to the offence of buying scrap metal for cash. Again, the Department is bringing forward an amendment to the clause to give the Department broad power to make regulations governing the process of scrap metal dealers' financial transactions. The Department plans to put in a provision that it must consult DOJ, the Chief Constable and the industry, prior to the regulations being introduced. Do members require any additional information on that clause? No. Are members content to await the amendment?

Members indicated assent.

The Committee Clerk: Clause 11 relates to the receipt of metal. The Department intends to amend the clause to remove elements in subsections (1) to (6) where duplication occurs in the existing duty of care regime. The amendment will also include reference to the Irish equivalent of the Vehicle Excise and Registration Act 1994. It also does not intend to bring forward subsections (7) to (9). Is there any other information that members want to see?

Mr Boylan: We want to see the redraft.

The Committee Clerk: Are members content just to wait to see the draft?

Members indicated assent.

The Chairperson (Ms Lo): Yes. And again, obviously, there is existing regulation that the Bill will, in some ways, duplicate.

The Committee Clerk: Yes. The Department's intention is to remove the duplication.

The Chairperson (Ms Lo): So they are going to remove the duplication and fit this into the current legislation. Again, there is dilution of the Bill, too, if you look at it.

Mr Boylan: On clause 11, are there suggestions for amendment?

The Committee Clerk: Yes, there are. They are going to bring forward amendments.

Mr Boylan: And just cut it —

The Committee Clerk: We do not know specifically yet. They are going to remove —

The Chairperson (Ms Lo): They will take out the bits that duplicate existing legislation.

Mr Boylan: OK. This is all on receipts, yes? The collection. You produce a licence and all that, but you produce a receipt for the metal itself. I take it that there was no talk of recording other information.

The Committee Clerk: I will clarify that with the officials, and they can come with the answer on Tuesday.

Mr Boylan: That is OK. I will ask them when they come. Thank you.

The Committee Clerk: Clause 12 relates to the disposal of metal. The Department advised that a number of the requirements of this clause are already covered in the waste transfer notes, and it intends to remove these from the Bill. This also includes subsection (3), which relates to the weight threshold. Further clarification will obviously be provided in the actual amendment. Do members want to receive any other information on the clause before Tuesday? No? I will ask the officials to bring it on Tuesday. Are members content with that?

Members indicated assent.

The Committee Clerk: Clause 13 relates to records. The Department intends to propose an amendment that removes areas already covered by the waste management licence regime and ensure that consistency is applied in relation to the retention of records and level of fines. Do members require other information, or are they content to wait?

Members indicated assent.

The Chairperson (Ms Lo): We are happy to wait and see the amendment.

The Committee Clerk: Clause 14 relates to the rights to enter and inspect premises. The Department intends to propose an amendment to include authorised officers of the Department, where appropriate, throughout the Bill. Do members want to seek any further clarification of that? Currently, only the Chief Constable is named in the Bill. There were representations that authorised personnel of DOE should be included.

Clause 15 relates to offences by bodies corporate. The Department does not plan to make any changes to that amendment. However, in its submission, the Department of Justice states that section 20 of the Interpretation Act (Northern Ireland) 1954 applies in cases where offences are committed by bodies corporate. It limits enforcement to offences committed by a body corporate, the liability of whose members is limited, and asks whether all prosecutions under the Bill will be against bodies corporate, the liability of whose members are limited, and whether an amendment should be made to disapply section 20 of the Interpretation Act in this case. There is a suggestion to forward that to the Department to get its response to that suggestion by the Department of Justice.

Members indicated assent.

The Committee Clerk: Do members want any other information?

The Chairperson (Ms Lo): This is also about local councils.

The Committee Clerk: That is the next clause. Are members content with the suggested action?

Members indicated assent.

The Committee Clerk: Clause 16 relates to carrying on business as a scrap metal dealer. The Committee received representation from a number of councils and Arc21 that councils should be exempt. The Department has been advised by its solicitors that local authorities are not businesses and, therefore, are exempt from the Bill. As the Bill captures plumbers and traders, the Department is also considering how subsection (3) can be amended to reflect some form of exemption for those trades. The Committee might also want to seek clarification that waste operators acting on behalf of councils and not just councils are exempt.

Mr Boylan: I agree with that approach, but that information would have to be recorded.

The Committee Clerk: In the Bill?

Mr Boylan: No. If councils are lifting scrap, is there any record of it being lifted? I do not mind the exemption issue.

The Committee Clerk: Are they recording what they take?

Mr Boylan: Are they recording that information? Is it an issue? Was it brought up before?

The Committee Clerk: I do not think that that aspect of records was discussed. Do you want to seek information on that before Tuesday?

Mr Boylan: I will ask the officials when they come.

The Chairperson (Ms Lo): A council may employ other waste operators. Are those included? For example, Bryson and others —

Mr Boylan: If there is a suggestion to exempt them, I support that.

The Chairperson (Ms Lo): We will need clarification of that.

Mr Boylan: That is OK.

The Committee Clerk: Clause 17 relates to orders and regulations. The Department intends to bring forward some technical amendments. Are members content to wait to see those on Tuesday?

Members indicated assent.

The Committee Clerk: Clause 18 relates to interpretation. The Department intends to propose an amendment to reflect other amendments that will be made. It is also considering amending clause 18 or adding a new clause relating to duties of scrap metal dealers, for example, as land or site managers or owners. That would be in relation to breached conditions. The Committee might want to await the amendment before taking a view on that one.

Members indicated assent.

The Committee Clerk: Clause 19 relates to commencement. The Department intends to propose an amendment to reflect changes in the Bill, and it is advised that some work may be required around the closure of sites in relation to commencement. Are members content to wait until that amendment comes through?

Members indicated assent.

The Committee Clerk: Clause 20 relates to the review of the implementation of the Act. The Department intends to propose an amendment to change it from six months to "not later than 12 months" and "periodically" thereafter. Do members require additional information? Are members content to await the amendment?

Members indicated assent.

The Committee Clerk: Clause 21 is the short title. The Department has advised that there are conflicts in schedule 2 with existing practices and that it, therefore, intends to bring forward an amendment to give the Department power to set the terms in regulations. The Committee might want to ascertain what the resolution of those regulations would be and what would be covered in them. Are members content?

Members indicated assent.

The Chairperson (Ms Lo): We have gone through that as best we can without actually seeing the amendments. As we said earlier, much has changed in the Bill, as the Department tries to dovetail with existing legislation. We will wait until next Tuesday at 12.00 noon.