



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Scrap Metal Dealers Bill: Mr Roy Beggs MLA

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On that aspect, part of the recent Fresh Start Agreement was about setting up a new task force to work particularly in the border areas. Some members were particularly concerned about the effect of cashless transactions in those areas, with business being driven across the border. I recognise that, at some point in the future, if there were limits to what could be done in cash, it could be an option to help to address illegal activity. I still wish to maintain the enabling ability to do that so that, at some point in the future, if it is either decided locally with the approval of the Assembly or decided in conjunction with the Republic of Ireland, cashless transactions could be brought in concurrently in Northern Ireland and in the Republic, and the issue of displacing business could be addressed. I simply wish to put that up front early on, because that may enable us to move on to some of the other issues rather than get bogged down in that. As I say, it is clear from the evidence that the police see merit in a cashless system, and that is why I wish to retain that as an option, but I have come to an assessment that, if we were to keep it in at this minute in time, it could be a stumbling block. Therefore, I wish to move on and, should secondary legislation come again, that would allow the Committee, at some point in the future, to have detailed discussions with the industry and address any concerns that might arise.

Nevertheless, the desire to create traceability is still very important, and I point to the fact that traceability exists in England, Scotland, Wales and, indeed, in the Republic of Ireland. Under their waste management legislation, there is traceability of anyone who supplies metals for a financial transaction or a benefit to a waste management facility. In fact, it is not just scrap; it is all waste in the Republic of Ireland. It is important that scrap dealers in Northern Ireland should have joined-up government. We should not be the weak point in the system. We should amend our legislation to ensure that suppliers of scrap metal are recorded. I point to the fact that, at present, the vast majority of scrap metal dealers have bought into the voluntary agreement and are recording registration numbers and CCTV pictures of individuals who are selling. Much of this is already happening, and I was proposing that the Department should make regulations.

I am aware that one of the arguments from the Department has been that this is a bad time for it. Originally, I was planning for this to occur within a one-year period, but, in the draft legislation, I extended it to two years because I was conscious of the fact that major reorganisation is happening at a departmental level and that there is also the surveying of better regulations. I recognise that things need to stabilise before further change can occur. I draw members' attention to the fact that there is a two-year window before change would have to happen.

There are environmental aspects to this. If you look at the evidence from the PSNI, you will see that the covering was burnt off three tons of copper cable at a site in Fermanagh. That damaged the environment. It is very clear that, if there were a requirement to have traceability as to how that three tons got on the site, those involved in that criminal activity that polluted the environment could be traced, but they are not able to be at present.

I also wish to make it very clear that I am willing to make adjustments to enable it to dovetail. It was always my intention that this legislation would work alongside, if not dovetail into, waste management legislation, but the Department has determined that this is duplication. It has been able to dovetail in the Republic of Ireland by detailing who the supplier is. The question is why it cannot dovetail now. The Department sets the regulation. If some of the detail around how I have seen the regulation needs to be adjusted, let us adjust it, but what is wrong with recording who supplied the material to a site as part of the waste management system? I ask the Committee to pursue that question in particular with the Department. Bear in mind that people are profiting by supplying metal to a waste site.

Councils have indicated that they think that they should be excluded. I am comfortable with that. Councils are not profiting by buying scrap metal. There is a degree of openness and transparency as to what happens at council waste recycling facilities, and individuals are not profiting by processing stolen metal. I am trying to be flexible and seek the Committee to press the Department to be flexible so that we can increase traceability and help reduce crime and the dangers to the environment, the community, local householders and businesses.

The Chairperson (Ms Lo): Thank you for your very detailed explanation of the concerns that were raised by the Department to us. You mentioned the voluntary code and said that it is working to a certain extent. The PSNI and the DOE are saying that if that is to be strengthened, together with all the new measures that have been taken forward by DOE through the waste management licensing combined with strengthening the code and the new measures, there is no need for your legislation.

Mr Beggs: A cashless system is something that we all should aspire to because, ultimately, that will enable very clear traceability of anyone who profits from the sale of metal. Looking at the evidence that has been presented to the Committee, on occasions, people have not been able to be identified under the voluntary system. The voluntary system is all CCTV. People have used baseball caps etc to try to disguise their identity. I propose that we should do just as in the Republic of Ireland where you have to show a driving licence, a passport or some very clear means of identification so that this aspect of potentially not being able to identify the seller of the metal would not be an issue. There would be a very clear method of identifying someone who had supplied metal that, potentially, could have been stolen.

The Chairperson (Ms Lo): OK, but your proposed amendment will be enabling legislation.

Mr Beggs: With regard to the cash element, I propose that it would be an enabling amendment. When the legislation came in, there would immediately be a £100 cash limit that would simply allow the Department to move to cashless at some point in the future, with the agreement of the Assembly. That would avoid having to go to consultation and having to have primary legislation. I will highlight once more that there is this new cross-border task force identifying cross-border crime and how to address it. Cashless transactions with regard to waste could be an important element. If we had it already sitting there, it could be timed to happen at an identical moment in time as colleagues in the Republic of Ireland.

The Chairperson (Ms Lo): That may be a way round it. OK.

Mr Boylan: Thank you very much, Mr Beggs, for coming back. I appreciate the work that has gone into the Bill; that is why we decided not to turn it down at Second Stage. The more I read it, the more I am caught by the issue of whether it is a DOJ matter. The premise of bringing the Bill forward was to deal with the theft of metal. It has now turned into a piece of legislation where you actually bring forward what would be classed as an operators' licence for people in the scrap metal industry, which is dealt with through another piece of legislation at this point in time — no matter how you think that legislation or waste management licence operates, whether it could be tweaked or looked at by the Department. That is my first point. I take it, Mr Beggs, that when you say that people should not profit from the sale of metal, you mean that people should not profit from theft.

Mr Beggs: Stolen metal.

Mr Boylan: That is grand, because people are entitled to bring metal to a facility. The issue for me is this, and I have said it in the Chamber: I know lots of electricians and plumbers who take ordinary bits and pieces of scrap metal, especially copper —

Mr Beggs: They take it with permission?

Mr Boylan: Yes, take it with permission and —

Mr Beggs: That is fine.

Mr Boylan: — get a small cash sum. I welcome the fact that you are looking at cash transactions. I know that, overall, you would like to remove them. Anyone from the industry whom I have talked to has concerns about the cash. They are still content with cash transactions; a lot of them do business that way. You are saying that you are willing to look at the issue.

Mr Beggs: I intend to bring an amendment.

Mr Boylan: That is grand. Clearly, that would be welcomed by the industry. The problem I see is that we are not getting enough presentations from the industry to this Committee for a proper, informed debate on whether we should take the Bill to Final Stage and support it. That is how I see it at the minute. I appreciate all the answers that you have given so far. As a Committee, given the issues you have raised over the last two days, we would like to see the Department back here, because I have some questions to ask about some of your responses and how you have dealt with the Department in trying to dovetail with some of the legislation that is there and work with it. I would like to tease some of that out.

Mr Beggs: Just to be clear, I have been unable to work with the Department, because it has simply said, "It is nothing to do with us. Go somewhere else". Equally, the Department of Justice said, "We are not dealing with this; it is not a matter for us".

Mr Boylan: One hundred per cent. What I am saying is that you have raised some issues, and I think that it is an opportunity for us to bring some departmental officials along and ask them. It will better inform us as a Committee. That is all I am saying. We as a Committee should ask some of the officials here.

The Chairperson (Ms Lo): We will.

Mr Boylan: But, Chair, I go back to the point: there were a couple of other wee issues. There is the issue of the display of licences. We are now moving to the point where we are taking tax discs and MOT discs off the car, and you are talking about mobile units displaying something on the windscreen. I do not know what that is about. Some of what you have in here is using a sledgehammer to crack a nut. I have some issues about some of the things that are in that. We will have time to consider, before Consideration Stage, proposed some amendments in the Chamber to address some of the issues. I may be willing to look at that. Like I say, my main issue, Chair, is that we are not getting enough back from the industry to inform us. We have heard from Mr Beggs, and he has presented his case for the Bill fairly well.

The Chairperson (Ms Lo): He has put in a lot of work.

Mr Boylan: Yes, he has put in a lot of work, but I do not think that we are getting enough feedback from the industry to inform us.

The Chairperson (Ms Lo): We have a list of dealers, and we may be able to contact them about coming up as soon as possible.

Mr Beggs: Can I come back on that? You have said that you think that the Bill should not be here; it should be with the Department of Justice. I am trying to minimise cost and bureaucracy for the industry, and I am aware that in evidence to the Committee the waste management hierarchy in the Department of the Environment gave you a figure for the current system of, I think, £1.145 million. That is for their chief officers, investigating officers etc and people below that grade. I believe most of that money is recouped by the current licensing scheme. If we pass this over to another Department, the Department of Justice will have to set up a similar unit to record all the details of those who are being licensed and of the waste management sites where scrap metal sites are being set up.

My hope is for dovetailing. When somebody wants to set up as a new scrap metal dealer, there could be a couple of extra boxes at the bottom of the waste management application licence. The applicant could tick the box if they want to trade in scrap metal. That would simply trigger an additional sheet or two of paper or whatever is determined by the Minister in the regulations. Again, do we tweak what is proposed so that it can dovetail with waste management? It was my intention and thought that it could.

I am trying to minimise the bureaucratic costs, and I do not want to have environmental officers calling at sites and then have Department of Justice officials calling at them. Some of the concern has been about the financial skills within the Department; the Department has said that it does not have the necessary level. The main thing is that you build in the requirement to record the financial information. Then, if necessary and where suspicion occurs, there is something for the police to trace. You do not need Department of Justice officials or DOE officials looking at every paper trail. Instead, you create an evidence base, which could come from simply providing additional information about who supplies the waste material to the sites. That fits in perfectly with the Department of the Environment.

There are a lot of benefits in the Department of the Environment being the one Department involved. Road safety is the responsibility of the Department of the Environment, but guess what? It is the police who investigate when someone breaches the law or does something wrong. Although it is DOE regulations that set driver training, as happened recently, the police are the ones who may detect the offence of driving beyond the conditions of the licence.

Mr Boylan: I accept that, Mr Beggs, but I could also make the argument that we are talking about the criminal offence of theft, responsibility for which resides with DOJ.

Mr Beggs: Just as the criminal offence of driving without a licence does.

Mr Boylan: No, we are dealing with the legislation that you are trying to bring in. All I am saying is that, if we talk to the departmental officials, there may be a way to bring forward some of the issues you have in the legislation in the waste management licence system without bringing forward the whole of it.

Mr Beggs: My intention is that this will dovetail with waste management legislation. The regulations would be made by the Department; I have not made them. The Department could make the regulations dovetail with the existing waste management regulations. That is why I found it very strange that it talked about a dual system. It is up to it if it thinks that we need to tweak the legislation, and it is up to it to ultimately determine the most efficient and best way to dovetail with waste management regulations.

Mr Boylan: I understand that, so I am not going over that point with you. We as a Committee have a responsibility to scrutinise this legislation, so I am going to go back to what I said at the start: I do not think we have enough time. Are we going to invite more people to give evidence? We certainly need to be better informed about the industry. I would also like to see the departmental officials back to discuss some of the things you brought up. But we have a duty now to scrutinise the Bill and to bring a report by a certain date. I raised some of those concerns, to be honest, as we have gone through this part of the scrutiny in the Committee. That is all I am saying.

The Chairperson (Ms Lo): The time element is a big thing, Roy. We want to give credit to the Bill and to be able to scrutinise it properly, but we do not have sufficient time. There is a question mark over whether we can fulfil our duty to fully scrutinise it.

Mrs Overend: I will be brief, Roy. We seem to be getting bogged down every time by talking about how long it will take, whose responsibility it is and whose it is not. It would be good if we could get on with it and make some progress.

I gather that you looked at the legislation in GB and in the Republic of Ireland and have tried to get something satisfactory for Northern Ireland. Is that not right?

Mr Beggs: Yes.

Mrs Overend: Something like a happy medium. The Chair mentioned that strengthening the code would be helpful, but that is not enough. We need to have penalties in place and to criminalise the actions of dealing with stolen scrap metal. Am I right that that is what you are trying to do?

Mr Beggs: The code works fine for the majority of those who have implemented it. The difficulty is that some have not done that. There is also a concern about the operation of illegal sites. Under the current rules, the Department has been very slow to take action against illegal sites. One of the aspects that it was concerned about was the potential for dual penalties. The scrap metal dealer's licence allows you to trade, but that is nothing to do with whether there environmental damage is being done or whether a waste management licence is being breached. I think there is benefit in having early penalties, because that is a very black and white thing: do you have a licence or not? It does not take two or three years to determine that, and it would allow things to move much faster. Again, what we need is a willingness to address the issue.

The Chairperson (Ms Lo): The Department has done that or is planning to —

Mr Beggs: I wonder whether it has done it knowing that there is further scrutiny of its previous inaction. I am pleased that it has started to tighten things up. However, an aspect that still gives me concern is mobile traders, who are likely to be under the Department's radar. I have used the terminology of the "one man in a van" before. Those people are probably not following waste management movements. You are meant to have waste transfer notes etc, and I suspect that there are quite a lot of mobile dealers who are completely under the radar.

The question I am posing is this: how are you going to identify those who are operating so that there is a fairer level of trading for everybody? At the very least, if you were recording those who are supplying material to scrap metal dealers, patterns will build up and it will be easy to investigate who is supplying regularly to scrap metal dealers. This is not just somebody who has knocked a building

down and has some girders left over that they have sold on a one-off basis. At some point, people who are regularly supplying to scrap metal dealers are not just supplying their own material; they may well be supplying as a trader or as a mobile operator and should be subjected to licensing. That will ensure that the material that they are supplying to the scrap metal industry is legit and that they can show where they acquired their metal. Where did they get the 200 kg of lead? How many of your constituents' roofs did it come off? *[Laughter.]* It is about creating an audit trail, even by noting where the material was supplied from. If this was a legitimate business that was operating under waste transfer notes, those notes would identify that Mr A moved materials from x to y and would identify whether the material was lead or steel. There would be some basic information about what was transferred. But for the ones operating without any transfer notes, no one knows where the material is coming from. They know it is arriving anonymously at some scrapyards, but there is no paper trail whatsoever.

The Chairperson (Ms Lo): Would the transfer note not do that?

Mr Beggs: That is what I am saying. There is the potential of the transfer note. It may need to be amended slightly. I do not know; I have not looked at that aspect in detail. I simply specified that the Department must, by regulation, record. That allows it to make amendments as necessary.

The Chairperson (Ms Lo): But the Department has proposed to have people who are fit for purpose and to add a transfer note.

Mr Beggs: The Department has recently, certainly since the draftsman was briefed to draft my private Member's Bill, brought in a fit-for-purpose aspect. That, I suspect, may leave my clause redundant. I may be able to withdraw it. I have to look in detail at that and compare it with what the Department has done. I may be able to rule out some aspects.

The Chairperson (Ms Lo): The Department has also said that, if required, it can introduce an ID requirement for people supplying scrap metal to yards.

Mr Beggs: Why does it not do that?

The Chairperson (Ms Lo): Would that make your Bill redundant?

Mr Beggs: My Bill —

The Chairperson (Ms Lo): Would it help with traceability?

Mr Beggs: What I have said is that my Bill is trying to create traceability. I have identified two important mechanisms. One is cashless transactions, because you can follow the money, and the other is a method of tracing who supplied the material to the scrap metal dealer. That is the main purpose. If the Department had not done that, my Bill would have forced it to. If it creates a suitably detailed audit trail, that would be fine.

The Chairperson (Ms Lo): It said that it was willing to look at introducing the requirement for ID —

Mr Beggs: I am wary of individuals looking at things; sometimes, things that are looked at do not progress. What I am saying is that, in regard to scrap metal transactions, there is a clear need to put in that audit trail so that scrap metal thefts can be further reduced. I keep saying this: we are the only place in the British Isles where there is no record of who supplied the metal to the scrap metal dealer. There is no necessity to record that information.

Mr Boylan: This is where some of the difficulty lies. I do not mind supporting the legislation to address the theft of metals; we are now talking about transporting metal. What about an ordinary electrician who picks up a wee bit of copper on site? That is exactly what is going to happen, at the end of the day. I am not making the argument that that is right or wrong. I think we could work with the Department on certain issues. Mr Beggs brought the Bill forward on the premise of the theft of metals. I support him in dealing with that and in working with the two relevant Departments; more so DOJ because theft is a criminal issue. I will go back to my point and say that the argument is getting wider and broader. That is a good thing, because it is up to the scrutiny of the Committee to do that. It is interesting.

I am glad that we invited Mr Beggs back. The argument is expanding outside the crux of the whole issue. If we were to bring this forward, we would need to look at seriously amending the Bill to make it good legislation. Good work is being done, but it needs to be better legislation to address all those issues. The only way we will find that out is to invite more from the industry to see what major impact it will have on it.

The Chairperson (Ms Lo): We also need to talk to the Department and put forward your argument to it to see how it can do more to try to dovetail this, as you said, and to get over the concerns that it has. It has legitimate concerns about the dual regulation. Is it going to be illegal under EU regulations and all that?

Mr Irwin: This is more of a comment than a question. I have some sympathies with the Bill. I know of a couple of churches — places of worship — that had lead stolen from their porch. I know that other members have concerns about cashless transactions, but I think it is one of the easiest ways of dealing with this if you have certain classes of people walking in. Cash of £100 was mentioned. It would be easy to get round that, because they will come in on four different days and get £100 each day.

Mr Beggs: Just to be clear, my legislation says that you are allowed one transaction a month with any dealer, so it is not just a matter of coming in on multiple occasions to the same dealer.

Mr Irwin: It is important that that is clarified.

The Chairperson (Ms Lo): It is quite burdensome.

Mr Irwin: It leaves the police in a weak position, because it is difficult for them to trace any of this. It can be traced, but I would have thought that, if there were cashless transactions, it would be much easier.

The Chairperson (Ms Lo): Yes.

Mr Irwin: I know that some members said that there will be problems round the border and that people will go across the border and sell it for cash. I am hopeful that the Government in the South will maybe deal with that.

The Chairperson (Ms Lo): The practice in the rest of the UK is the cashless transaction. Roy is willing to put in an amendment to give the Department the enabling power to do it. Why do you not change it to say "cashless", rather than to say that there will be enabling legislation later?

Mr Beggs: I am uncertain of what the will of the Assembly will be. The industry was saying that it wanted some degree of cash, so, I reflected on that and decided that I would go for a cash limit that could be adjusted by the Department. In fact, the Bill allows the Department to pick either any limit or no limit. So, it could be withdrawn completely under the current system. It could go cashless if that were the will of the Assembly. I am trying to get legislation progressed, and I was trying to pitch at something I thought I could get the support of members for.

Mr Irwin: I have just one more comment. For instance, if there was a theft, four different guys could go in half an hour apart and get £100 apiece for the stuff. That is the difficulty that you have with that.

The Chairperson (Ms Lo): Yes, they will find a loophole.

Mr Milne: Thanks, Roy, for the presentation. I want to give a rundown, as I see it, from the Committee's point of view. We were introduced to this three to four weeks ago, or maybe six weeks ago — whatever short time it was. We heard a presentation from the British Metals Recycling Association (BMRA). It pointed out the dangers that would arise if we had legislation in the North and no legislation in the South. It pointed out examples of —

Mr Beggs: Again, to be clear, I am proposing an amendment that gets rid of that argument over cash or cashless. I am bringing that forward, so that difficulty at the border will be dealt with in an amendment I intend to table.

Mr Milne: The point that I want to make is this: we have had presentations from the BMRA and from the Department. The Department's presentations, more or less, followed the lines that the Bill was basically out of date. If it had been introduced two years ago, it would not have introduced all the other regulations that it has —

Mr Beggs: The Department has introduced significant changes since I briefed the draftsman who came forward. I accept that that change has occurred. I do not know whether that is as a result of the fact that —

Mr Milne: It could have been pressure from your Bill.

Mr Beggs: As a result, it may well be that some sections of my Bill become obsolete. That is something that I will be looking at in detail. As I said, the clause on the fit and proper person is one obvious clause that I may be able to take out completely.

Mr Milne: I am not being critical of any of this; I am just trying to outline it, as I see it. We have not had any presentation from the industry, so we do not even know whether the industry is saying that this is a good idea or a bad idea. How is it going to affect the industry here in the North if there is a rush of cash going south? We need to hear that —

Mr Beggs: The cashless issue is gone. You are allowed to trade in cash.

Mr Milne: Right, OK. I just think that, at this stage, we really need to have more information from the industry just to see exactly where it is from both sides of the argument.

Mr Beggs: The one thing I would say —

Mr Milne: I do not think that anybody's head is set against what you are trying to do. They are definitely not. It is just a case of producing the facts and going with them.

Mr Beggs: The one thing I would say is that the industry will want to be able to operate with minimal constraints. I am focused very much on this issue: is it reasonable to record who supplies scrap metal and a rough description of it? At present, there is no mandatory requirement to do that for material going to scrap metal dealers. If the Bill did nothing else but require that, the waste management regulations would be amended so that those operating scrap metal sites would have to record the nature of the metal coming in and who supplied it. That is the purpose of the Bill.

Can we not amend waste management regulation in Northern Ireland? It can be done through this Bill. That is my minimum objective. I suspect that you will consult the industry. Will it want that? You will probably know the answer straight away. It will say, "No, we don't want that". Is there a community benefit in doing it? Is it reasonable to do it? Does it get rid of the difficulty of manhole covers being stolen and the community being endangered by telecom and electricity cable being stolen and burned, polluting the atmosphere, and criminals profiting because they cannot be traced? At this stage, I will ask you this: is that not a very reasonable minimum suggestion?

Mr Milne: Yes. Thanks, Chair.

The Chairperson (Ms Lo): OK, Roy, we will talk to the Department, try to talk to the industry and then go through the Bill clause by clause to see how we can dovetail or amend it. Thank you, Roy.