



Northern Ireland
Assembly

Committee for Justice

OFFICIAL REPORT (Hansard)

Justice (No. 2) Bill:
Formal Clause-by-clause Consideration

7 January 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Mr Alastair Ross (Chairperson)
Mr Raymond McCartney (Deputy Chairperson)
Mr Stewart Dickson
Mr Alban Maginness
Mr Patsy McGlone

The Chairperson (Mr Ross): We will work our way through this as methodically as we can. The Committee will now undertake its formal clause-by-clause consideration of the Justice (No. 2) Bill and the proposed amendments. For ease of reference, a paper setting out the Committee's deliberations and the text of the proposed amendments to the Bill, including two further amendments to Part 2 of the Bill provided by the Department in response to the Committee's deliberations and which provide the Prison Ombudsman with the power to commence investigations of his own volition and place a duty on the Justice Minister to request the ombudsman to conduct investigations in cases of near death, were circulated electronically to members yesterday and have been included at pages 95 to 146 of the tabled papers.

We will proceed through the clauses and schedules of the Bill in order and put the Questions formally. Where there are amendments, I will put the Question on the amendment first. Where no amendments have been proposed and no issues have been highlighted, I will seek the agreement of the Committee to group those particular clauses when putting the Question. I ask that members be loud in their agreement or disagreement; sometimes, in these things, members lose the will after a few of them, so please make your views known.

We begin with Part 1, "Collection and enforcement of financial penalties". The Department has provided the text of five substantive amendments and a number of minor and technical amendments to this Part of the Bill and, during the discussions, members indicated that they were broadly content with the provisions and the proposed amendments.

New Clauses

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to introduce new clauses 9A, 9B and 9C to provide for police power of arrest in circumstances of non-attendance at fine default hearings?

Members indicated assent.

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to introduce new clause 9D to create a power for the recovery of the fee for the cost of default hearings?

Members indicated assent.

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to introduce new clause 12A to improve information access and sharing by collection officers?

Members indicated assent.

Clause 1 (Application of Chapter)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to clause 1, which is a consequence of the introduction of new clause 12A relating to information access and sharing by collection officers?

Members indicated assent.

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

Question, That the Committee is content with clause 2, put and agreed to.

Question, That the Committee is content with clause 3, put and agreed to.

Clause 4 (Additional powers where collection order made)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental minor drafting amendments to clause 4?

Members indicated assent.

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

Clause 5 (Collection officer to contact debtor in default)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental technical amendment to clause 5?

Members indicated assent.

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

Clause 6 (Powers of collection officer in relation to debtor in default)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to clause 6 regarding making a vehicle seizure order only if satisfied that the value of the vehicle, if sold, would discharge the sum owed, including the likely charges and costs of the sale, and the minor drafting amendment?

Members indicated assent.

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

Clause 7 (Referral to the court: collection officer's report etc.)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to clause 7, which is a consequence of the introduction of the new clauses to provide for police power of arrest in circumstances of non-attendance at fine default hearings?

Members indicated assent.

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

Question, That the Committee is content with clause 8, put and agreed to.

Clause 9 (Powers of court on referral of debtor's case)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to clause 9, relating to the introduction of the police power of arrest in circumstances of non-attendance at fine default hearings?

Members indicated assent.

The Chairperson (Mr Ross): Is the Committee content with the proposed amendment to clause 9, which is the enabling power for the drug and alcohol rehabilitation that we have just discussed?

Members indicated assent.

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

Clause 10 (Application for deduction from benefits)

The Chairperson (Mr Ross): Is the Committee content with clause 10 as drafted?

Mr McCartney: Chair, in relation to these clauses, clause 11 provides for regulations and we will be seeking assurances from the Minister regarding the taking of money from people on benefits and the wider impact of that. We have reservations until we hear the Minister make a commitment on the Floor of the House.

The Chairperson (Mr Ross): OK. Do we get clause 10 agreed?

Mr McCartney: I am just saying that the application will be contingent.

The Chairperson (Mr Ross): OK. The Committee is content with clause 10 as drafted; there is no opposition as such. We will move on to clause 11, then, and reflect that in the report.

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

Clause 11 (Deduction from benefits: further provision in regulations)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to clause 11 that provides for the regulations to make further provision about applications for deductions from benefits?

Mr McCartney: Yes, just that sort of wider consideration.

Members indicated assent.

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

Question, That the Committee is content with clause 12, put and agreed to.

Clause 13 (Attachment of earnings order)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental minor drafting amendment?

Members indicated assent.

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

Question, That the Committee is content with clause 14, put and agreed to.

Clause 15 (Interim bank account order)

Mr McCartney: Again, this is one of the ones where we will be seeking a commitment from the Minister that it will not impact negatively on a family.

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

Question, That the Committee is content with clause 16, put and agreed to.

Question, That the Committee is content with clause 17, put and agreed to.

Clause 18 (Vehicle seizure order)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments relating to the introduction of a police power of arrest in circumstances of non-attendance at fine default hearings and to specify the issues that the court should take into account before making a vehicle seizure order?

Members indicated assent.

Mr McCartney: Again, there is that wider consideration about impact.

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

Question, That the Committee is content with clauses 19 to 21, put and agreed to.

Clause 22 (Interpretation etc.)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment, which is a consequence of the introduction of the new clause relating to information access and sharing by collection officers?

Members indicated assent.

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

Clause 23 (Minor and consequential amendments)

The Chairperson (Mr Ross): An amendment to clause 23 relates to Part 4 of the Bill. Therefore, I intend to put the Question on this clause at that stage, if members are content.

Members indicated assent.

Clause 24 (Supervised activity orders)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to ensure that a supervised activity order cannot be considered as an option in default of a confiscation order, and the minor drafting amendments?

Members indicated assent.

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

Clause 25 (Restriction on detention of children for default in paying fines, etc.)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental minor technical amendment?

Members indicated assent.

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

Question, That the Committee is content with clause 26, put and agreed to.

Clause 27 (Limitations on remission)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental minor amendment to correct a date?

Members indicated assent.

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

Schedule 1 (Attachment of earnings orders)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental minor drafting amendments?

Members indicated assent.

Question, That the Committee is content with the schedule, subject to the proposed amendments, put and agreed to.

Schedule 2 (Collection orders: minor and consequential amendments)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to ensure that a warrant of committal for default under the Bill is treated the same as a similar warrant under the Magistrates' Courts (Northern Ireland) Order 1981 and that prosecutorial fines can be treated in the same way as the fixed penalties and penalty notices already included in schedule 2, and the minor drafting amendment?

Members indicated assent.

Question, That the Committee is content with the schedule, subject to the proposed amendments, put and agreed to.

Clause 28 (The Prison Ombudsman for Northern Ireland)

The Chairperson (Mr Ross): The Department has provided the text of five substantive amendments and several minor drafting amendments to Part 2. During discussions, members indicated that they were generally content with the provisions and the proposed amendments, although one member highlighted reservations regarding clause 38.

Question, That the Committee is content with clause 28, put and agreed to.

New Clauses

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to introduce new clauses 35A and 35B to enable the Prison Ombudsman to initiate investigations of his own volition?

Members indicated assent.

Clause 29 (Main functions of Ombudsman)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment as a consequence of new clauses 35A and 35B?

Members indicated assent.

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

Clause 30 (Complaints)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to create a power to defer investigations where the ombudsman considers it necessary to do so and to require the ombudsman to inform the police of a suspected criminal offence as part of any investigation he is conducting?

Members indicated assent.

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

Question, That the Committee is content with clause 31, put and agreed to.

Clause 32 (Investigations into deaths in custody)

The Chairperson (Mr Ross): Is the Committee content with proposed departmental amendment to clause 32 to create a power to defer investigations where the ombudsman considers it necessary to do so?

Members indicated assent.

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

Question, That the Committee is content with clause 33, put and agreed to.

Clause 34 (Investigations requested by the Department)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to clause 34 to require the ombudsman to inform the police of a suspected criminal offence as part of any investigation he is conducting and to place a duty on the Minister of Justice to request the ombudsman to conduct an investigation in cases of near death?

Members indicated assent.

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

Question, That the Committee is content with clause 35, put and agreed to.

Clause 36 (Powers of Ombudsman)

The Chairperson (Mr Ross): Is the Committee content with clause 36 as drafted?

Mr McCartney: We will possibly seek to amend that around compelling witnesses, but we agree with what is in the Bill.

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

Clause 37 (Disclosure of information)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to clause 37 to change the reference to Northern Ireland Public Services "Ombudsperson" to "Ombudsman" and to add the Attorney General to the list of bodies to which protected information may be disclosed?

Members indicated assent.

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

Clause 38 (Guidance to Ombudsman in relation to matters connected with national security)

Mr McCartney: We will be opposing clause 38.

The Chairperson (Mr Ross): Do you want to have a vote now?

Mr McCartney: No, that is OK. I am just stating our position.

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

Question, That the Committee is content with clause 39, put and agreed to.

Clause 40 (Transitional provision: the Prisoner Ombudsman for Northern Ireland)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to clause 40, which is consequential to new clause 35A?

Members indicated assent.

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

Schedule 3 (The Prison Ombudsman)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to schedule 3 to change the references to Northern Ireland Public Services "Ombudsperson" to "Ombudsman"?

Members indicated assent.

Mr McCartney: Schedule 3 states that a person convicted of a criminal offence will no longer be the Prisoner Ombudsman. We agree with the NIACRO position that there should be an assessment of the relevance of the offence to the ability to carry out the job.

Question, That the Committee is content with the schedule, subject to the proposed amendments, put and agreed to.

Question, That the Committee is content with clauses 41 to 44, put and agreed to.

New Clause

The Chairperson (Mr Ross): I will now put the Question on the Department of Agriculture and Rural Development amendment to the Welfare of Animals Act (Northern Ireland) 2011 and the DOJ amendments relating to direct committal for trial and the court funds office. During the discussions, members indicated that they were content to support the amendments.

Is the Committee content with the proposed Department of Agriculture and Rural Development amendment to introduce a new clause 40A to increase penalties for animal welfare offences in the Welfare of Animals Act (Northern Ireland) 2011?

Members indicated assent.

New Clause

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to introduce a new clause 44A to provide the required authority to introduce a fee structure for the court funds office to deliver full cost recovery?

Members indicated assent.

New Clause

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendment to introduce a new clause after clause 44 relating to the direct committal for trial provisions in section 9 of the Justice Act (Northern Ireland) 2015?

Members indicated assent.

New Clause

The Chairperson (Mr Ross): I will now put the Question on the firearms amendments that were considered earlier. Is the Committee content with the proposed departmental amendments to introduce new clauses after clause 44 to amend the Firearms (Northern Ireland) Order 2004, repeal the Unlawful Drilling Act 1819 and introduce a new schedule covering the authorisation of shotgun clubs to allow use of shotguns by minors for limited purposes, variation of firearm certificates and fees?

Mr McGlone: Chair, that may be subject to a slight wording variation on one part. I raised a point about the pigeon shooting and the jurisdictions from which those certificate holders come to allow for that.

The Committee Clerk: If you are happy, we will note that.

Mr McGlone: Aye, subject to whatever they respond with, to accommodate that.

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

New Clause

The Chairperson (Mr Ross): Are members content with the Committee amendment which we discussed earlier on revenge porn? That is a legalistic term, but we all know what we are talking about.

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

Clause 45 (Ancillary provision)

The Chairperson (Mr Ross): The Department advised the Committee of its proposal to remove clause 45 from the Bill in its entirety and replace it with a power to make ancillary provisions under more restrictive circumstances than under Part 1 of the Bill. It subsequently provided the text of an amendment to clause 23, and during discussions the Committee indicated that it was content with this approach and the rest of the clauses in Part 4.

Question, That the Committee is content with clause 45, put and negatived.

Clause 23 (Minor and consequential amendments)

The Chairperson (Mr Ross): Given that we have opposed clause 45, is the Committee content with the proposed departmental amendment to clause 23 to provide a power to make ancillary provisions to Part 1 of the Bill?

Members indicated assent.

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

Clause 46 (Regulations and orders)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to clause 46, which are consequential to the removal of clause 45 and the amendment to clause 23 and as a result of the amendment to clause 34, to place a duty on the Minister of Justice to request the ombudsman to conduct an investigation in cases of near death?

Members indicated assent.

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

Clause 47 (Commencement and short title)

The Chairperson (Mr Ross): Is the Committee content with the proposed departmental amendments to clause 47 which are consequential to the amendment to clause 23, and the amendments relating to the penalties for animal welfare offences?

Members indicated assent.

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

Long Title

The Chairperson (Mr Ross): As this is the end of the clause-by-clause consideration, the Committee must now consider the long title of the Bill. Is the Committee content with the proposed departmental amendments to the long title consequential to the firearms amendments?

Members indicated assent.

Question, That the Committee is content with the long title, subject to the proposed amendment, put and agreed to.

The Chairperson (Mr Ross): Thank you very much. That was relatively painless. The draft report on the Bill is being prepared for consideration and approval at our meeting on 14 January, so it will be a fairly quick turnaround.