



Northern Ireland  
Assembly

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**COMMITTEE FOR  
AGRICULTURE AND  
RURAL DEVELOPMENT**

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**OFFICIAL REPORT  
(Hansard)**

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**Forestry Bill**

1 February 2010

**NORTHERN IRELAND ASSEMBLY**

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RURAL DEVELOPMENT**

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

Mr Ian Paisley Jnr (Chairperson)  
Mr Tom Elliott (Deputy Chairperson)  
Mr Thomas Burns  
Mr Willie Clarke  
Mr Pat Doherty  
Mr Patsy McGlone  
Mr George Savage  
Mr Jim Shannon

**Witnesses:**

Mr Michael McCann )  
Mr Stuart Morwood ) Department of Agriculture and Rural Development  
Mr David Small )

**The Chairperson (Mr Paisley Jnr):**

You are all very welcome. The previous evidence session was very good, and I appreciate the time that was taken to get through that. You have had a follow-up meeting with the Committee Clerk and officials to go through some of the other issues and to put some meat on the bones. Perhaps you can bring us up to date and we will take it from there.

**Mr David Small (Department of Agriculture and Rural Development):**

I apologise for the absence of John Joe O'Boyle. He was to be with us today; however, his

father-in-law has suddenly become ill.

**The Chairperson:**

Do pass on our thoughts to John Joe.

**Mr Small:**

At last week's meeting, the Committee raised a number of points around clause 1, which sets out the general duty for the Department. Reference was made to the importance that the Committee attaches to the Bill's clearly referencing issues such as biodiversity, recreation opportunities within forests, sustainable forestry and climate change. We have now submitted, for the Committee's consideration, a revised clause 1, which we think sets out clearly the duty to promote issues such as those. The revised clause puts a clear, direct duty on the Department to encourage the enjoyment and recreational use of forests. Those provisions are all new in comparison to the original clause 1. The Bill now clearly and overtly refers to the importance of climate change, biodiversity and recreation within our forests, as well as to the wider duty on Forest Service to promote sustainable forestry across all forests and woodland in Northern Ireland.

From our point of view, we feel that the duty on the Department has been broadened and made clearer, and I hope that we are now reaching the point at which that is coming close to satisfying the Committee. Clause 1 is clearly important because it sets the foundation for the Bill. It would be a good step forward if we felt that we were getting close to the point at which we could agree on it.

**The Chairperson:**

Clause 1 is really the Bill's mission statement. Members have a sheet which indicates what the general duty on the Department is. It would be very useful to have a discussion, today or next week, with stakeholders' representatives, to ensure that that clause now meets the enthusiasm of the community so that the Forestry Bill can go forward and achieve what we want it to achieve. I do not know whether the wording in clause 1 is too narrow or whether there needs to be more in it; that is something that members may want to come back on. I propose that, next week, we have a round-table meeting for stakeholders to thrash that out and to get to the point at which we can sign on the dotted line on the general principle of the Bill.

**Mr Elliott:**

From our perspective, the rewording of clause 1 changes its meaning significantly. Having only looked at it quickly, I do not have too much to pick up on. However, the encouragement to plant more forest should be included in that clause, and, at this stage, I am not sure that it is.

**Mr Small:**

It is under the revised clause 1(1), which includes:

“the general duty of promoting afforestation”.

Afforestation is the planting of new forests and forest expansion. Promoting that is a duty that falls to the Department, and we will do it through grants, incentives and other initiatives. We all know how difficult that is proving at the moment, and there is significant work to be done in that area. However, the duty to promote forest expansion is clearly set out in clause 1(1). It is one of the key duties.

**Mr Savage:**

Does that come under the land parcel improvement scheme?

**Mr Stuart Morwood (Department of Agriculture and Rural Development):**

It will come under the incentives provided by the woodland grant scheme and the farm woodland premium scheme. There is also an incentive in that when farmers in receipt of single farm payment plant their land with forest, they will be eligible to receive single farm payment.

**Mr Savage:**

What is the smallest area of ground that those schemes will take into account if a farmer wants to plant it with forest?

**Mr Morwood:**

Under the woodland grant scheme, the minimum area is 0.2 hectares, or half an acre. Under the farm woodland premium scheme, the minimum area is one hectare.

**Mr Savage:**

That is important. Over the weekend, I spoke with a couple of farmers who had picked up something in the paper about this, and who are anxious to plant trees on their property.

**Mr Small:**

There is an opportunity under the countryside management scheme.

**Mr Morwood:**

Yes. Under the countryside management scheme, farmers can receive support for planting less than 0.2 hectares or half an acre. The schemes should join up in that respect.

**The Chairperson:**

As revised, clause 1 states that you want to promote forestry:

“in such a way as to encourage the enjoyment and recreational use of that land by the public”.

It also mentions sustainability. Is there any obligation on the Department to produce a strategy on sustainability, employment, encouragement of the use of forests, or the recreational use of forests? Can we add more meat to the duty by way of a strategy? Will that be taken care of in subordinate legislation?

**Mr Small:**

The Department has strategies in place. We published a strategy last year that specifically deals with the recreational use of forests and how we intend to promote more recreational use and facilities. We also have a strategy for sustainability and growth, which sets out a whole range of issues on sustainability and sets out the two key objectives of forest expansion and the sustainable management of forests. Strategies are in place to underpin the general duty of the Bill, but they will need to be refreshed and renewed at some point.

**The Chairperson:**

I was particularly thinking of a proposal similar to the one contained in the Wildlife and Natural Environment Bill whereby the Department of the Environment (DOE) designates a biodiversity strategy. They actually pick in on that, and they pool resources as well, to a large degree.

**Mr Small:**

We have looked at the Wildlife and Natural Environment Bill and that clause. It is slightly different in that the opening duty of that Bill places a duty on all public bodies, including Departments, to promote and meet the obligations around biodiversity.

**The Chairperson:**

Whereas the Forestry Bill places the duty solely on the Department?

**Mr Small:**

Yes. The duty in the Wildlife and Natural Environment Bill is also supported with a biodiversity strategy.

**The Chairperson:**

That would not do what we are seeking here, would it?

**Mr Small:**

The slight difference is that the Department is imposing duties on itself and the Forest Service through the Bill. The designation of the strategy under the Wildlife and Natural Environment Bill is because of the duty that it imposes on other public bodies. We are not trying to impose duties on any other public bodies through the Forestry Bill.

**The Chairperson:**

Do you accept that there is some requirement on other Departments to recognise the benefits? Take obese children: a good recreation-focused Forestry Bill that encouraged kids to use forests for recreational and sporting purposes would have a beneficial impact on what the Department of Health would have to spend on addressing obesity in children and adults. Can the Department not put more enthusiasm into the duty to show the other Departments the benefits that they could derive from it? Everyone recognises that you will do the lion's share of it, but should a general duty not also be placed on other Departments?

**Mr Small:**

I refer you to the strategy that the Department published last year, which refers to the health and wellbeing benefits of forests and the tourism potential. It sets out —

**The Chairperson:**

Yes, but that strategy does not have legislative teeth.

**Mr Small:**

I accept that point and I was going to come on to it. The strategy includes an implementation plan whereby the Department is obliged to proactively go to other Departments and discuss the opportunities and shared objectives with them. The question is whether that is sufficient or whether something that is linked to subordinate legislation would be more effective. At this stage, my view is that a clear strategy is in place which obliges the Department to go to other Departments and discuss other opportunities with them.

**The Chairperson:**

So you are basically referring me to the answer that you gave some moments ago.

**Mr Small:**

Yes. The Committee Clerk has referred us to the Wildlife and Natural Environment Bill and the possibility of some sort of designation approach. However, I would prefer not to commit to that at this stage. I would like to take it back and discuss it with other colleagues in the Department and with the Minister.

**The Chairperson:**

OK. Your taking it back, thrashing it out, testing it and coming back to the Committee is the important part. However, the Committee would like to come to a firm starting point with you in relation to the general principle. That matter could be sorted out quite quickly, and we could have a quick round-table discussion with some of the stakeholders next week.

**Mr McGlone:**

You mentioned the strategies that the Department has in place with respect to forest expansion and the sustainable management of the forests. Do you feel that the Forestry Bill, in combination with the strategies, will give us more improvement on the expansion of forests and improve performance in that area? There are some concerns that the Forest Service needs to improve its performance a little.

**Mr Small:**

The Bill will give the Department the powers that it needs to promote and encourage forest expansion through the grant facility and the ability to offer incentives to landowners. The

strategy sets out the importance of doing that, and sets some targets, but alongside that we need to continue to develop our ideas and thoughts about how we can promote this to landowners, including farmers, and make it appear more attractive to them.

If the Bill is passed it will give the Department the powers it needs, most notably the ability to pay grants. The strategy sets out direction, aspirations and targets, but we need to think about the mechanisms for delivery. The grant facility is already in place; we have recently increased the grants and are getting some response to that from landowners, but we need to continue to think about other strategies and other ways in which we can make it more attractive.

**Mr McGlone:**

You mentioned the response from the landowners; I take it that that response has not been over the top.

**Mr Small:**

It has been fairly positive. Having said that, it is only a couple of months since the grant rates were increased, but there has been a positive response. We need to continue to get the message to landowners, including farmers, that those higher rates of grant are available, and that there are other benefits that woodland can deliver for them. There is a large piece of work involved in the promotion and communication with farmers and landowners. That is where we need to put in more work.

**Mr McGlone:**

Can you explain how this cluster of strategies could do that? You say that it will involve a large body of work, but, were this Bill not here, what could not be done that you think can be done when the Bill and the strategies are in place?

**Mr Small:**

The Forestry Act (Northern Ireland) 1953 gave the Department the ability to pay grants, and that is how we have been doing it since then. What is missing is the ability to persuade farmers — a lot of our focus is on agricultural land — that converting their land to forestry is the right thing to do. That is a major decision for a farmer, because it involves locking his land up in woodland for a period. That is where additional work is needed.



The Bill will continue to give the Department similar powers, but I am not sure that we need more legislative authority or power to do what we need to do. We just need to do more of it. We need to put more resources against the task of promoting, encouraging and communicating more effectively with the farming community and other landowners. We do not need any additional powers to do that; we just need to do more of it. That is where the focus needs to be.

**Mr McGlone:**

You have almost made a case against the Bill. The Department needs to be doing things other than the legislative stuff. What will the Bill empower the Department to do? Usually, bringing in a Bill is not the best way to encourage or incentivise people to do anything. Can you give me some indication of how the Bill gives added focus to what you have just outlined to me — persuasion and encouraging more active participation, especially by the farming community?

**Mr Small:**

The main element is the ability to pay grants, and the Bill will ensure that the Department continues to have that authority.

**Mr McGlone:**

Yes, but I am trying to establish what new powers it gives. It continues to give the Department an authority that it already had. What is new in the Bill? Perhaps I am a little convoluted in trying to get to the point, but I am trying to tease out the elements of it.

**Mr Small:**

I understand the point that you are making. You are trying to identify any new particular provisions in the Bill that will support forest expansion beyond the provisions of the current legislation. I am not sure there are any, because I do not think that the Department needs more legislative power. It needs to do more of the stuff that it is already able to do. It is not that we have not been doing that effectively, but we must find the right mechanisms for convincing landowners that woodland creation is the right thing to do.

We had to be careful that we did not impose too onerous a duty on the landowner, because that would have acted as a disincentive. We have found a way of avoiding that by placing the duty on the Department to promote sustainable forestry rather than placing that duty on the individual landowner, because that would have been a further disincentive. We have avoided that, and

maintained the Department's ability to pay grants. With all that in place, we need to do more around communication and promotion, and we do not need more legislative power to do that.

**Mr Morwood:**

It comes back to the general duty of the Department. In the 1953 Act, the emphasis was purely on timber production. However, with the new Bill, the means by which an owner can benefit from his woodland are not restricted, and our promotion of timber production is not restricted. The Bill includes recreational, social and environmental use, and some of the proposed amendments to the general duty make reference to recreation and to climate change. Those may be directly relevant to private landowners because they may see an opportunity to enhance the value of the woodland for their business in relation to recreation or some aspect of carbon sequestration and climate change. Therefore, it comes back to the general duty of the Bill and ensuring that woodland owners in the private and public estate redefine what is meant by "forestry". That will give the means by which an individual owner can identify the further benefits and act effectively upon them. We should encourage them to do that.

**Mr McGlone:**

I am playing devil's advocate here, but how does the legislation incentivise someone to participate in contributing to combating climate change and encouraging the general enjoyment of facilities?

**Mr Morwood:**

I am merely speculating here, but, if I were a farmer marketing my milk or beef produce, a retailer might want to ascertain the carbon footprint of my business. That retailer might say that he wants my carbon footprint to be within certain limits, and he might want me to demonstrate that. There is good scientific evidence that increasing the woodland cover of a farm will increase carbon sequestration, and that may be an opportunity for me to market my produce in a means that is much more attractive than the milk or beef that is derived from some other part of the world.

**Mr Small:**

As Mr Morwood said, we are speculating on that. However, we are trying to identify new areas that constitute a potential new benefit for a farmer or woodland owner. When those issues become clear, and when we are clear that there will be a new benefit from it, we need to be quick

to get out and promote that benefit. There are potential new areas where farmers can derive a benefit from wood energy, renewable energy opportunities or the ability to secure the higher rates of grant, and, as Mr Morwood said, there is a potential benefit in the future around the carbon balance on farms. However, at this stage, it is too early to know where that whole argument might go.

**The Chairperson:**

We need to have round-table discussions on the issue. That will give us an opportunity to drill down and clear up any concerns. It will involve the Department, people who are involved in the business use of forests, such as ConFor, and people who are involved in the recreational use or potential recreational use of forests. We will include them all and have round-table discussions on the issue. At that point, hopefully, we will have a real definition and a strategy statement, and we can go forward with that.

Clause 5 deals with the compulsory acquisition of land. What have you done on that since the previous meeting?

**Mr Elliott:**

Before you go into that, I notice that clause 4 is not mentioned in your explanatory notes.

**Mr Small:**

That is referred to under clause 7. There are similarities between clause 4 and clause 7.

**The Chairperson:**

We will come back to it.

**Mr Small:**

We have not presented any new proposals or amendments to clause 5 today.

**The Chairperson:**

Are you holding those back from us?

**Mr Small:**

No, we are looking at what those amendments might be, taking account of the Committee's

comments last week. There was a widespread concern in the Committee about the wide-ranging nature of the powers that are currently proposed in clause 5. The Committee said that those powers need to be narrowed down significantly, with some illustration of the Department having exhausted all other possible avenues.

We are considering how we can describe that in a revised clause before we go to the Office of the Legislative Counsel to get an amended clause. The Committee also suggested the idea of temporary, rather than permanent, arrangements. We are considering those issues, and we will seek advice on how we can capture all of that in an amended clause. We hope to have something for the Committee for next week.

**The Chairperson:**

I reiterate that the Committee is opposed to clause 5 in its current form, and it is essential that we reach agreement on that. I will not rehearse the arguments on why that should be the case, but there is merit in coming to an agreed position, and that will help the Bill.

We move on to the proposals to do with woodland inventory.

**Mr Small:**

At last week's meeting, the Committee was concerned that the inventory was to be restricted to the area of forest cover in Northern Ireland. We accept that that is too narrow, and we propose to amend the clause so that the inventory will include cover, location, size and type of woodland. We feel that an inventory that covered those aspects would meet our needs. We are aware that some stakeholders have talked about taking the inventory further to deal with issues such as timber quality and quantity, flora and fauna. We feel that that would be an onerous and resource-intensive obligation.

**The Chairperson:**

Yes, I picked up on that last week. Is there a way of incentivising the gathering of that information by saying that a person who plants on land must take responsibility for developing the inventory? If they were able to provide information on those other subjects that you say are expensive, the Department could assist with the payment. Is it possible to look at incentivising the gathering of information?

**Mr Small:**

Mr Morwood, do you have any thoughts on the woodlands grant scheme, through which we pay grants and may have some leverage to do that? It might be more difficult to impose those kinds of obligations on a private woodland owner, who, without a grant from the Department, chooses to plant another piece of woodland.

**The Chairperson:**

It would not have to be done in the form of a compulsory obligation. The Department could create an incentive for people to help it to have a baseline for its knowledge by adding a layer to the grant system. If people gathered information in a certain way and to a certain standard, the Department could pay for it.

**Mr Morwood:**

Yes, that can be considered. The cost of such an incentive scheme would be significant. We would also have to ensure that a standard is maintained. That is key for any inventory. The landowners would come to inventory from a range of levels of expertise, from very little experience to considerable.

**The Chairperson:**

That would be like me submitting accounts that have been completed to my standard; they have to be to a certain standard. That would force me to employ a professional to deliver my accounts properly. Likewise, the private sector could be encouraged to apply for assistance in gathering information, selecting someone from a list. It is a way of expanding one's knowledge base on what is out there.

**Mr Morwood:**

Inventory will expand the knowledge base; one would look for the most cost-effective way of achieving that. If one opts for a level of detail which involves enumeration of all forest areas on the ground, whether by people who are appropriately trained or by an in-house team, the costs will be high. That is the experience from elsewhere.

**The Chairperson:**

I think that it would create competition in the marketplace.

**Mr Morwood:**

There will be competition, and that will drive efficiencies. However, the maintenance of standards is key, and one has to have a process in place to ensure that all the work is being done to an acceptable standard. There will, therefore, be an additional regulatory burden on those who are gathering the data.

As is the case with all inventories, one has to bear in mind that it is not a once-and-for-all operation; it is an operation that will need to be updated regularly. One can start with a wide-ranging and detailed inventory, but, within a number of years, it will be dated, and people will ask what changes are occurring and whether you can provide them with measurements of the changes. One is, therefore, rerunning the process, because it is not a once-and-for-all operation.

**The Chairperson:**

It starts from the principle that if it is not measured, it is not done.

**Mr Morwood:**

Measurement is needed; there is no doubt about that.

**The Chairperson:**

Without a baseline, you cannot even start that measurement.

**Mr Morwood:**

One does need the baseline, and one needs to ensure that those key parameters are identified. There is a risk that one generates a much longer list of the parameters that one wants to measure, which is associated with cost, but one will want to do that as efficiently and effectively as possible.

**The Chairperson:**

I am not trying to impose an onerous burden on the Department. I appreciate that the Department has little enough money, but I think that there is an opportunity that the Department could look at. I agree that you have to provide a skeleton of measurements, but there is an opportunity to add more meat to the bones through another process. That could be incentivised. It is just an idea, but I think that you could look at it. There is no point in having something that is so expensive that it becomes a burden, but I think that there is a way round it.

**Mr Elliott:**

I am concerned that we are getting into too much detail on this area. If it were left to some environmentalists in this country, we would be growing nothing in Northern Ireland except fauna and flora; there would be no timber, grass or cereal production. I do not think that the Department should be subject to gathering huge amounts of evidence at a huge cost for that. I support a broad inventory of woodlands and forestry, but I am not keen to do other people's work.

**The Chairperson:**

Even with a grant?

**Mr Elliott:**

Even with a grant available on this occasion. I see some of those groups putting farmers to a great deal of trouble. You are aware for some of them as well. In some areas, they make it almost impossible for the farmers to farm. I am not prepared to allow that to affect forestry production as well.

**The Chairperson:**

There is more than one opinion on this, as you can see.

**Mr Small:**

I support Tom's position. We support the need for an inventory, and we have indicated that we will broaden that out. We know that other data sources are out there, and we will look at those over the course of the next year and try to gather together that additional data. Although the statutory duty will require us to deal with issues such as cover, location, size and type of woodland, other data sets exist that will enable us to expand that and go beyond what is indicated in the legislation.

As to incentivising the private woodland owner, I can see the potential outcome. It depends how far we intend to go. Once we begin to talk about timber quality, timber quantity, flora and fauna, the exercise is not straightforward. There is a lot of survey work involved in doing that. Even for the private woodland owner, and even with a grant, it is an onerous burden.

From a forestry point of view, we question the value or need for some of that additional data. There may be biodiversity benefits from greater information on flora and fauna, but I am not sure that it would be appropriate for us to be offering additional incentive, or grant aid, to gather that information. Our view is that, if we have a statutory inventory that covers location, size and type of woodland, that will provide the baseline that we need to measure any progress we make on forest expansion, type of expansion and so on. The addition to that of other data sets that we know exist will take it further again. That is as far as we think it appropriate to go at this stage.

**Mr Savage:**

I agree with Tom. This presents great opportunities to develop the forest industry in Northern Ireland, provided that people are not burdened with bureaucracy and paperwork. That has to be assured.

I have two questions. There are a lot of opportunities for large-scale forestry. However, the question in everyone's mind is how much per hectare the farmer gets. You have probably given it to me in writing somewhere. What does the farmer receive?

My second question is important. There are many questions about forests at present. Will there be more opportunities for people out on horseback and one thing or another? Can you open up your forests more for people who have horses? Many MLAs receive letters from people who have horses but nowhere to ride them. The roads are dangerous; can they use forest walks? That is a huge opportunity for you. You can sell the forest to those people, and you will have the backing of quite a number of people. That opportunity is there for the grasping.

**Mr Small:**

I will let Mr Morwood deal with the rates of grant available. As to use of the forest for pony-trekking and horse riding, we have already opened up much of the forests for those purposes. We have recently held discussions with the British Horse Society about a more strategic approach to catering for and accommodating pony riding in the forests. We hope that that process of engagement with the British Horse Society will lead to some agreed approach as to how all that can be managed in a more strategic and better way.

**Mr Morwood:**

The woodland grant scheme rates for broadleaf planting were increased in November 2009 from



£1,850 to £2,400 a hectare and for conifers from £1,250 to £1,600 a hectare. Those grants are available to assist in establishing new woodland. The annual premiums were increased by up to 50%. The rate for improved lowland areas, for example, increased from £270 to £290 a hectare per annum. If one planted predominantly broadleaf trees, the owner would be eligible for that for a 15-year period. The new rates compare reasonably well with conacre rates. The rate for non-farmers for improved land is £400 a hectare.

**The Chairperson:**

The Department, in its proposals for clause 6, says that it will:

“publish that register in such form and at such intervals as the Department thinks appropriate.”

The Committee would not quite agree to that blank cheque. Can you be a wee bit more specific about what you have in mind? Are you looking at publishing annually or biannually, for example?

**Mr Morwood:**

The register would certainly not be published on an annual or biannual basis. We may need to distinguish between the inventory and our annual targets to encourage people to create woodland under the woodland grant scheme. Each year, we report accurately down to the tenth of a hectare how many hectares were established under the woodland grant scheme. We are obliged to continue to do that.

The inventory is to provide a pen picture of change over, say, five to 10 years. The Northern Ireland Countryside Survey, for example, is carried out every seven to 10 years. The inventory is essentially an attempt to gauge significant changes in woodland cover. We will have accurate data about woodland created under the grant scheme. What we do not have is any indication of people whose woodland is not created through a grant scheme, or woodland that has been removed since the most recent inventory. The publishing period would, therefore, be longer than you suggested.

**The Chairperson:**

That is a helpful explanation. Could you detail it in the proposal? I do not know whether the Department is proposing to publish the register every five, seven, 10 years or whatever. The reasons given are understandable, but it is important that the details are laid out so that we know what we are buying into, as opposed to saying that the register will be published

“at such intervals as the Department thinks appropriate.”

**Mr Small:**

We will spell that out. Our concern is that if we indicate a definite period, a cost implication will be associated with that every one, two or three years, or whatever the case may be.

**The Chairperson:**

Stuart is inclined to beyond every five years, by the sound of it, and that is a fair assessment. Every seven years, perhaps. I have no truck with whatever period is decided, but you must be specific.

**Mr Small:**

Yes, you mean something more definite. We will examine that issue and what that time period may be.

**The Chairperson:**

Clause 7 deals with incidental powers, and the Department has proposed amendments to restrict those powers. Can you tell us what you have done on that since our previous meeting? Please bear in mind the use for development of forestry land.

**Mr Small:**

Mr Elliott had issues with this clause. It is a pity that he is no longer present.

The main change that we recommend is that we take out the offending words in the clause's opening sentence, which currently state that we may do anything that we believe to be consistent. We propose to remove that wording and limit the powers to the specific circumstances that are outlined under clause 7(2), which is about entering into arrangements through a lease or some such methodology, or, as clause 7(2)(b) states, forming a body corporate, whereby we could go into a joint venture with an organisation. That provision is included in the legislation because the experience of colleagues in the Forest Service has been that a joint venture or body corporate-type approach is sometimes the best way in which to secure the maximum return for the public estate. However, the clause will now be more specific in the details of those four paragraphs of subsection (2), and the offending wording at the start is to be removed.

The other point that we have clarified is that the ability to enter those arrangements or form bodies corporate was originally envisaged for the functions of the Bill that delivered the general duty, as previously prescribed in clause 1. Clause 4, to which Mr Elliott referred, dealt with a situation in which forestry land could be used for purposes other than forestry. However, that was also tied into the general duty. We have tried to merge clauses 4 and 7 as far as possible, in respect of entering partnerships or arrangements with other groups, in order to make that provision more consistent.

Clause 4, which we propose to amend to contain only two subsections, deals with the additional power that the Department needs to develop projects; for example, tourism or renewable energy projects. However, some test must be involved to relate that to the general duty. We must ensure that the scale of what we propose is consistent with the general duty. Therefore, if we propose a tourism project that takes up half a hectare of a 3,000 hectare forest, that would be regarded as reasonable and in proportion to our wider duty. However, if it were otherwise, it would no longer be feasible.

**The Chairperson:**

It provides the balance.

**Mr Small:**

Yes. Clause 4(2) gives the balance and some protection against the general duty. As I said, the offending words in clause 7(1) will be removed so that the powers are more prescribed. I hope that that addresses the key issues that the Committee raised. Tom Elliott raised the specific issue of the use of forestry land for those wider purposes. At the previous meeting, he sought clarity that that was the intention, and I can confirm for him that it was. Our paper, which the Committee received this morning, reaffirms that.

**The Chairperson:**

I thank you for listening to us. Since our previous meeting, good work has been done to redress the balance and get clause 7 right. I appreciate that. No doubt, Committee members will want to raise other issues.

Let us move to the proposed amendments to clause 8, which concern the issue of killing “at any time”. I stress that that refers to animals.

**Mr Small:**

Clause 8 deals with killing deer or hares in the close season.

**The Chairperson:**

I noticed that the partridge season ended in Northern Ireland at the weekend.

**Mr Small:**

At the previous meeting, we outlined a number of changes that we proposed to implement to reflect the Committee's earlier comments. They include narrowing the range of animals included under the clause, to the point at which it will now include only deer and hare. Clause 8 is almost the same as the provision in the 1953 Act. We are now looking at a clause to which there will be only a slight amendment.

I think that we have addressed the key issues that the Committee raised. Jim Shannon raised a point about killing "at any time", which would also allow night-time killing, and so on. We have reflected on those comments and decided to remove that provision from the Bill.

**The Chairperson:**

Have you removed that provision?

**Mr Small:**

That is our proposal. We have discussed clause 8 with Department of the Environment colleagues, who have compared it with the work that they are doing on the Wildlife and Natural Environment Bill. They are satisfied that the clause is consistent with the Wildlife (Northern Ireland) Order 1985 as it stands, and with their proposals to amend the 1985 Order under Wildlife and Natural Environment Bill. They are satisfied with the nature of clause 8.

We hope that we have addressed most of the issues that the Committee raised.

**The Chairperson:**

I ask that you bring the draft text to the Committee so that we can take a close look at it and try to sign off on it.

**Mr Savage:**

Clause 8(3) as it stands refers to killing wild animals “at any time”. If that provision were to be better worded, it may not attract so much attention. The point about wild animals trespassing on land is that a landowner must have a good fence around his land, and the adjoining landowner should also have adequate fencing to keep his cattle or other animals from straying on to neighbouring property. There are aspects of the clause that raise questions. We are living in a wonderful age, but we must be very careful. I do not like the wording of clause 8, because I think that it draws too much attention to the killing of animals.

The wording suggests that animals can be killed “at any time”. One activity that is becoming popular in the countryside is the lamping of wild animals. We must be very careful. Some of those people can leave a trail of destruction behind them. I am aware that wild animals must be controlled, and I know the damage that they can do to young trees, but the wording just does not look right.

**The Chairperson:**

I appreciate those comments, but, to be fair, the Department said that it will bring new wording to the Committee.

**Mr Small:**

We will be rewording the clause to address that issue. Some other issues around night-time killing and lamping are addressed in the Wildlife and Natural Environment Bill.

**The Chairperson:**

Clause 9 deals with control of animals on land adjacent to a forest.

**Mr Small:**

The key issue in clause 9 was to do with the proposal on the previous clause.

**The Chairperson:**

Was that the proposal about damage?

**Mr Small:**

It was the proposal to recover costs from a landowner. Last Tuesday, we indicated that that

is no longer our intention. We will return to the Office of the Legislative Counsel (OLC) to have the clause redrafted to reflect that change.

**The Chairperson:**

Will the clause be removed entirely and replaced with a new clause 9?

**Mr Small:**

No; we still want to retain clause 9 and the included provision to go on to adjoining land, but we intend to remove the ability to recover costs from the landowner, having taken into account stakeholder comments and those of the Committee.

Again, we have spoken with DOE colleagues about clause 9, and about general issues around the control of animals. They were content with the structure of clause 9. At our previous meeting, we agreed that we would meet with the British Association for Shooting and Conservation (BASC) to discuss its reservations about the clause.

**The Chairperson:**

That is a sensible idea. Again, I am glad that you have listened to our deliberations from the previous meeting. It is unfair to go on to someone's land, destroy an animal and then send the person a bill for doing so. At least that provision is to be removed. The Committee would like to see the detailed wording, and then we will hopefully be able to sign off on clause 9.

Clause 10 deals with the removal or destruction of vegetation on adjoining uncultivated land.

**Mr Small:**

At last week's meeting, we discussed the concerns of stakeholders and one or two Committee members over how we will use the powers granted under clause 10. Although the clause is essentially a straightforward carry-over from the 1953 Act, concerns were raised last week about the definition of "uncultivated land". We also indicated that, if possible, we would like to prescribe the circumstances and specific vegetation that clause 10 should cover. We are considering both those issues and will try to bring back something more prescriptive to the Committee.

**The Chairperson:**

We are still unclear about the breadth, meaning, scope and definition of “uncultivated land”, although you have said that you will come to us on that.

**Mr Small:**

Yes; we hope to bring something back next week.

**The Chairperson:**

That is positive. Once again, I appreciate the fact that you are listening to the Committee on these points.

We now move to felling licences.

**Mr Small:**

One of the key issues was the proposal to charge a fee for a felling application and licence. We have noted the Committee’s concerns about fees and are considering whether we could waive the fee in the context of wider Government principles on cost recovery. The Department has sought advice on fees, and we still await comment on that. If it is possible, I think that our intention will be to waive the fee and maintain parity with GB and the South. I cannot confirm that at this stage, although I hope to be able to do so next week.

**The Chairperson:**

I want to reiterate the position that the Committee took in evidence from the Confederation of Forest Industries (ConFor) that it would be perverse for a fee to be imposed on people who are trying to make a living from forestry in very difficult circumstances. In ConFor’s words, it would have the perverse effect of undermining the Bill’s central purpose.

*Committee suspended for a Division in the House.*

*On resuming —*

**The Chairperson:**

You will be pleased to know that our adjournment was successful for some. There was a Division of the House, and half the House was successful.

We were discussing the issue of fees. I was reiterating points made previously that to include felling licences ultimately defeats the purpose of the Bill and its general strategy. I implore you, therefore, to listen to the Committee representations and not have additional costs or fees. Enough was said about that, and I know that you are listening. We have seen some good progress. However, I reiterate that point, because representations to the Committee from the likes of ConFor and other groups made clear that fees are the difference between making a business and not making a business.

**Mr Small:**

We hope to be in a position next week to clarify the position on fees.

**The Chairperson:**

Excellent.

**Mr Elliott:**

Has Forest Service any idea about what type of fees are being considered?

**Mr Small:**

In terms of the quantum?

**Mr Elliott:**

Sorry?

**Mr Small:**

The quantum of a fee?

**Mr Elliott:**

Yes.

**Mr Small:**

Not really, Tom. A felling licence will cover a five-year period. Therefore, we will not get an application from that individual for another five years. Based on that, and our knowledge of the number of woodland owners, we estimate that we are looking at 60 or so applications a year.



Against that, we will need to process the application, and we may need to visit the site. We will also have to look after the administrative side, and we estimate that we will need one or two individuals engaged full-time or part-time on that. In those circumstances, if we were to apply full cost recovery for one or two salaries against 60 applications, the application fee would be very high. Those are some of the issues that we have been trying to capture and articulate. Therefore, on that basis, we do not think that full cost recovery would be justifiable.

**The Chairperson:**

Members will have a copy of the draft management plan, and from what I can see, you are not looking for a great deal of information.

**Mr Small:**

The management plan is part 4 of the felling licence application form. It sets out a description of the work plan for the woodland area for the five-year period that would be covered by the licence, along with any regeneration plans. The second page sets it out in tabular format.

**The Chairperson:**

To return to our earlier discussion, bearing in mind the comments that other Committee members have made, is there room should they ask to add to your inventory, or does the form suffice?

**Mr Small:**

It would give us some information that we need about area, species and volume, but we would be asking too much from woodland owners if it were extended to flora and fauna. If woodland owners are already concerned about keeping the felling plan as low a burden as possible, I would not want to add more requirements to it. However, the form is two or three pages and, in almost every circumstance, that is the extent to which we will be looking for information.

**Mr Elliott:**

It is relatively simple at the moment, and I suppose it is similar to the fees issue. It is like saying that we will charge only a £10 application fee, but then it can increase quite quickly. Therefore, the management plan for the felling licence looks simple, but I would not like to see any more detail in it, because other sectors, such as the pig and poultry sector, must obtain an integrated pollution prevention and control (IPPC) licence, which is quite intensive. It involves getting specialists to test soil and areas, and I would not like to see the management plan become

anything like that.

**Mr Small:**

That would not be our intention. This is our proposal at this stage, but the nature of the plan will be prescribed in subordinate legislation, so the Committee will have another opportunity to discuss it.

**The Chairperson:**

It is important to keep it simple.

We will now discuss ancient woodlands, and, in particular, compensation and implications for setting conditions to restock ancient woodland sites. What have you decided since our previous discussion?

**Mr Small:**

At our previous discussion, I outlined some of the issues that we felt we had to deal with around balance in respect of human rights compatibility. Our concern was that we might receive an application for felling in a forest or ancient woodland site, and, in many circumstances, the felling may be quite appropriate. For instance, it may be aimed at taking out conifer and replacing it with a more appropriate broadleaf. Our view is that felling will sometimes be appropriate. It is quite likely that, rather than refuse a felling application, we may grant an application with some conditions attached. In doing that, one of the main conditions will be that restocking should take full account of good forestry practice and that ancient woodland be dealt with in detail, in accordance with 'The UK Forestry Standard'. The document includes a section on managing broadleaf woodland and ancient woodland, and we would ask woodland owners to take full account of that guidance.

The Department also outlined some of the issues in making a specific requirement to force an individual to plant a particular species of tree, which, in some circumstances, would almost certainly trigger compensation provisions. Those provisions would be difficult to manage and the compensation could involve significant amounts.

The Department's view is that compensation provisions must be included in some form in the Bill. We discussed that issue with the Woodland Trust and were advised that those provisions

should be removed, because they will tie the Department's hand to some extent. However, the legal advice that was received by the Department indicated that some compensation provision must be contained in the Bill to provide balance and to demonstrate compatibility with human rights legislation.

Once those provisions are enacted, the Department must be very careful in managing its handling of applications for felling licences, and any conditions that it might impose on the licensee. In some circumstances, that might restrict how far it can go without triggering compensation requirements, but that is the situation that the Department must deal with.

The Department is pretty confident that in areas where broadleaf woodlands are on an ancient woodland site that it will be able to require restocking with a similar form of woodland. However, the difficulties arise in areas where conifer woodlands have been planted on an ancient woodland site. The question is whether the Department could require the woodland owner to plant native broadleaf woodland in future. The Department feels that such action would trigger compensation requirements and mean that people who own conifer woodlands would be queuing up and threatening to cut them down and replace them with conifers to force the Department to go in the other direction. In those circumstances, rather than proposing a condition on the licensee that requires broadleaf woodland to be replanted, the Department would propose one requiring proper account to be taken of forestry standards and good forestry practice. That might not be as far as we would prefer to go, but, in those circumstances, it is about as far as we could go.

**The Chairperson:**

OK. Thank you.

We will now move on to the issue of the advisory body. I am loath to propose the introduction of another quango, and, quite frankly, I do not think that the resources are in place to finance another one. However, the recreational, environmental, farming and business sides all have expertise in the area of forestry, and, in order to ensure that the Department and the economy benefit, we should be listening to those voices. I am unsure how the Department wants to take forward the advisory body, but there should be no duplication, and we should draw in those who are already involved in forestry and listen to their views. It is about trying to achieve a balance, and it might be useful if the Committee were to raise the issue of the proposed advisory

body during its meeting with the stakeholders next week to get their views on it.

**Mr Small:**

As the Committee will know, the Department questioned whether there is a sufficient added benefit in establishing a permanent advisory body, and whether it would deliver something that we cannot already gain from our stakeholder approaches.

When the recreational strategy was being developed, the Department established a stakeholder forum for one year, while it developed ideas. That stakeholder input was helpful, shaping various aspects of that document, and, as a result of that success, the Department has proposed establishing a stakeholder forum to manage the implementation of the Bill. The Department will continue to employ such a process when it is developing something new or significant, because that approach seems to deliver results.

**The Chairperson:**

Answers on a postcard?

**Mr Small:**

We must be convinced that there is some added benefit in creating an advisory body.

**Mr Elliott:**

Is there any merit in making the body's remit slightly wider so that it looks after felling licences? That would result in Forest Service's having to apply for a felling licence, because applications would not be made to it. I am throwing that out as an option.

**Mr Small:**

Forest Service is the forest authority in Northern Ireland, and it is appropriate that it makes such judgements. If that kind of role were to be delegated to an advisory body, the body would have to be heavily resourced, because it would take on all the judgements and balance those against all the UK forestry standards and guidance. It would be a major job for such a body. If the Department were to have to apply for felling licences, there would not be 60 applications a year, because we manage 60,000 hectares of woodland, in which much felling takes place. I am not sure that that idea is workable. The burden on an advisory body with that kind of role would be too great.

**Mr Elliott:**

It would put private forests on a much more equal footing with the Department.

**Mr Small:**

I appreciate that.

**Mr Elliott:**

It would mean that the Department did not keep its current unfair advantage.

**Mr Small:**

I do not accept that we have an unfair advantage. I accept that we will not go through the process of applying for a felling licence, but we maintain a comprehensive management-planning process that far exceeds what we are proposing in the two- or three-page felling plan that we have just discussed. We do an awful lot more than apply for a licence, and having to do so would not be a burden for us. I do not accept that the fact that some groups will have to apply for a licence while we do not means that there is an unfair playing field. The current arrangements and processes are already robust and comprehensive.

**Mr Elliott:**

ConFor told the Committee that the timber that it uses for its manufacturing has to be from that licensed or quality-assured process.

**The Chairperson:**

It has to meet a standard.

**Mr Small:**

Its timber has to meet the UK woodland assurance standard (UKWAS).

**Mr Elliott:**

I assume that the Department has to meet the same standard.

**The Chairperson:**

It must need to meet it, because one cannot trade without having done so.

**Mr Small:**

That is correct; one would struggle to put timber on the market without it. A range of obligations needs to be satisfied to meet it. The difficulty with the standard is that it involves a certification that must be renewed annually and is subject to audit. We do not know what would happen if we were to grant licences on the basis of the standard's being met. Individual woodland owners could lose their certification after the licence had been issued, and we would be none the wiser.

**Mr Elliott:**

Can the process of certification and the issuing of a licence be amalgamated and streamlined? Processes can become overly bureaucratic if they involve a couple of stages.

**Mr Small:**

In a way, it will almost become like that. Any woodland owner who is registered under UKWAS will have a good set of forest plans, which will probably exceed what we require. Woodland owners will fill in the two- or three-page felling plan once every five years, and that will be routine for them. No burden will be placed on them, and, if we can waive the fee, there will be no fee burden either. Our proposal should not impose any new burden on someone who is UKWAS-certified.

**Mr W Clarke:**

The non-governmental organisations (NGOs) that the Committee talked to felt that there was not enough scrutiny of Forest Service. I am not saying that a new quango should be set up, but your meetings with stakeholders could take place twice a year to discuss issues such as the Department's performance and the improvements that could be made. A compulsion on the Department to hold two meetings a year with stakeholders is the way forward and a sensible approach to take.

**Mr Small:**

We take the view that we are pretty well scrutinised. We are scrutinised by this Committee —

**The Chairperson:**

I am glad that you feel that way.

**Mr Small:**

We are also scrutinised by the UK woodland assurance standard scheme, and our annual audits are scrutinised by the Northern Ireland Audit Office (NIAO) and by our internal audit. When we set up stakeholder forums to carry out specific pieces of work, that is also a scrutiny process through which we are challenged. I have listened to your points and Tom's points, and we have set out our position that we are not convinced, but I will reflect further on what you have said and get back to you next week.

**The Chairperson:**

David, we have found today's meeting to be helpful. As I have reiterated, we have come to agreement on a number of areas, and I appreciate the fact that you are listening to us. We can keep that level of communication. I ask you to speak to the Committee Clerk's office before the next evidence session if you have any issues on which to follow up.

I remind Members that we will meet tomorrow between 12.30 pm and 5.00 pm, and between 5.45 pm and 7.30 pm. We put in more hours than those who are meeting in Hillsborough.