Northern Ireland Assembly

Committee for Agriculture and Rural Development

OFFICIAL REPORT (Hansard)

Reservoirs Bill: Consideration of Amendments

27 May 2014

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:
Mr Paul Frew (Chairperson)
Mr Joe Byrne (Deputy Chairperson)
Mr Thomas Buchanan
Mr William Irwin
Mr Declan McAleer
Miss Michelle McIlveen
Mr Oliver McMullan

Witnesses:

Mr Kieran Brazier	Department of Agriculture and Rural Development
Mr David Porter	Department of Agriculture and Rural Development

The Chairperson: I advise members that the purpose of the session is to consider the Rivers Agency amendments and to seek agreement or otherwise on them. It will also be the last opportunity for members to indicate whether they wish to see any further amendments or to seek clarity on any issue. Next week, we hope to commence the formal clause-by-clause scrutiny of the Bill and, by that stage, it will be too late to seek clarity. I ask members to give this session their full attention, to consider whether they have any other amendments and to remain in the room for the duration of the session.

With us today we have David Porter, the director of development, and Kieran Brazier, the head of the Bill team. As always, you are very welcome to the Committee.

Members may wish to have their copy of the Bill and other relevant documents open in front of them for this part of the meeting. The Rivers Agency has provided three positions for us as follows: amendments that are being recommended to the Minister, which we have in front of us for consideration today — annex B, annex B1 and annex B2 — and two tabled documents. We will look at those shortly. We had hoped to see today the amendments that are being worked on for recommendation to the Minister; they are at annex C. We will have a short discussion on why we still do not have those, when we can expect to have them and whether we can have them later. Finally, annex D sets out the proposed amendments that the Rivers Agency has decided against, and we will discuss those in some detail later.

David and Kieran, although I know that you have a massive body of work on these amendments and the Committee's other concerns, we felt that it was a considerable time since we last met, and we thought that these would have been produced for us and be in our packs so that we had a number of days to peruse and assess them. That has not been the case for many of them, we received tabled papers only today, and one document has only just been put before us. I am looking at the main amendment for clause 120 with all its subsections and paragraphs, and I realise that there is a

massive body of work. However, given that we did not meet last week, we felt that there had been sufficient time to produce documents for us in good time. I consider it bad form that we have not had the document before now. I am putting down a marker because I think that, for us to scrutinise and assess the legislation and give it the time that it deserves, we are behind the eight ball if we are seeing it only now. I will let you come in on that.

Mr David Porter (Department of Agriculture and Rural Development): Your point is accepted, but we have been trying to clear all the amendments and have them drafted. I can tell the Committee that we have them all drafted. We found ourselves in a position in which we could release some because they were within our gift, and we were not relying on approvals from others, so we prioritised those and got them to you first. We have continued to work on clause 120 in particular, and, as you identified, we did not give it to you because of its complexity. We want to ensure that what we put forward is as accurate as possible, albeit that the thrust of what we agreed has not changed at all. It was purely down to the amount of work involved in going through the Bill and checking every single clause to see whether it should be in or out. Perhaps it is partly to do with our diligence and our not wanting to put something forward that is not 100% accurate. As I said, we have drafted the items that we have not been able to release. We are depending on others, and there are sensitivities. I will use one example: we are writing into the Bill that the Office of the First Minister and deputy First Minister (OFMDFM) may do something by regulation, and, quite clearly, we need to get that cleared. We cannot simply put forward that amendment and then have OFMDFM hear that it will be required to do something in legislation. There is a process that we are not in control of, so I have to beg your indulgence. We are really focused on getting those amendments so that you can continue your formal clause-by-clause scrutiny next week. That is our absolute target, and we are doing our absolute best.

The Chairperson: I understand. Stella, would it be in order to send out a text message to remind members that we have just started the consideration of amendments for the Reservoirs Bill? Members may not realise that we have reached this point.

We will start by looking at the amendments that are being recommended to the Minister and that we have in front of us for consideration today. I advise members that the Rivers Agency is now in a position to recommend two amendments to the Minister. The first is on clause 22, which is on matters to be taken into account in relation to risk designation. The others are to clause 25(2)(k) and clause 33(4)(i), which is on the frequency of visits by supervising engineers. Should we go through these one by one, with you explaining them? Are members agreed?

Members indicated assent.

Mr Kieran Brazier (Department of Agriculture and Rural Development): The first amendment is to clause 22 — specifically, clauses 22(3)(e) and 22(4). The Examiner of Statutory Rules drew the Committee's attention to that clause and suggested that two regulating powers seemed very similar, that clause 22(3)(e) was not subject to consultation with the Institution of Civil Engineers and that both regulations were by negative rather than affirmative procedure. If made, the regulations would be crucial to the Bill. That relates to matters that need to be taken into consideration when giving a risk designation to a reservoir. The first part of that regulation refers to consequence and the second part refers to probability. We gave this consideration. The Examiner of Statutory Rules suggested that one regulatory power could be introduced there. We considered that. However, what the examiner was keen to ensure was that, if we retained both regulatory powers, both would be subject to consultation with the Institution of Civil Engineers. We have decided to keep clause 22(3)(e):

"such other matters as the Department may by regulations specify."

That was done to give transparency to that part of the Bill on probability. I know that probability and consequence have featured largely in the discussions with the Committee throughout our time here. We did not want to remove anything that might lead people to think that we were trying to slip something through in another regulation. We wanted to be clear that other matters that the Department might want to take into consideration when looking at the probability of a reservoir failure would be made by regulation under clause 22(3)(e).

Clause 22(4) gives us the regulating power to control other matters that are to be taken into consideration in the overall clause. We wanted to retain that as well. Crucially, we have agreed that those regulating powers are by affirmative resolution. If we are going to bring forward any regulations under clauses 22(3)(e) or 22(4), we will do so and will bring that forward to the Assembly. We will also consult on both parts of that regulating power with the Institution of Civil Engineers before we do so.

So we will retain clauses 22(3)(e) and 22(4). In retaining both, we will ensure that regulations are made by affirmative rather than negative resolution and that we consult the Institution of Civil Engineers before bringing forward any regulations to the Assembly.

The Chairperson: Are there any comments on clauses 22(3)(e) and 22(4)?

The Committee Clerk: Or on proposed new subsection (5).

The Chairperson: Thank you very much, Stella. Are there any comments, members?

Mr Byrne: That is OK.

The Chairperson: We will move on.

We will deal with clauses 25(2)(k) and 33(4)(i), which relate to the frequency of visits by supervising engineers.

Mr Brazier: Clause 25(2)(k) relates to the number of visits by supervising engineers to high-risk and medium-risk reservoirs. As currently drafted, it states:

"(i) where it is a high-risk reservoir, at least twice in every 12 month period,"

"(ii) where it is a medium-risk reservoir, at least once in every 12 month period".

We discussed the possibility of relaxing that stipulation at the last Committee meeting. We consulted the Institution of Civil Engineers, and it was agreeable to our suggestion to reduce the minimum number of visits to a high-risk reservoir to one every 12 months and to change the regime for a medium-risk reservoir to a visit at least once every 24 months. The amendment now reflects that proposal. There is also a consequential amendment to clause 33(4)(h)(i). It states:

"if the inspecting engineer considers that the supervising engineer should visit the reservoir more frequently".

That repeats clause 25(2)(k), so it needed to be amended to reflect the proposed amendment of a minimum of one visit to a high-risk reservoir every 12 months and a minimum of one visit to a medium-risk reservoir every 24 months. That is a consequential amendment.

Mr Byrne: Are high-risk reservoirs in GB visited with the same frequency, or are we more stringent?

Mr Porter: In England, no minimum standard is specified in legislation. It has an implied minimum standard. A supervising engineer has to provide an annual statement, which means that it is implied that they have to visit the structure.

Mr Byrne: Is the annual statement for a high-risk reservoir or for all reservoirs?

Mr Porter: There is no medium designation.

Mr Byrne: So it is for all reservoirs.

Mr Porter: We are in a period of flux because, previously, under the 1975 legislation, it was for all reservoirs of a certain size, irrespective of their consequence. At present, amendments are being brought to that legislation to change the requirement from a certain size to high-risk and no designation. Therefore, all reservoir structures that are designated as high risk will have to have an annual statement.

Mr Byrne: That is fine.

The Chairperson: Are there any other comments? To repeat: this is clause 25(2)(k), which states that a visit to a high-risk reservoir must happen at least twice every 12 months, whereas a medium-risk reservoir must be visited at least once every 12 months. The proposed amendment is that a high-risk reservoir must be visited at least once every 12 months and, in the case of a medium-risk reservoir,

once every 24 months. The time between visits has been extended. Do members have any comments?

Mr Byrne: Chairman, I welcome the change. We raised that point three or four weeks ago.

Mr Buchanan: I wonder whether the time between visits could be extended further. If someone has spent thousands of pounds and carried out works to a reservoir, I cannot understand why it has to be visited every 12 months and a report done at expense to whoever owns the reservoir. If I build a house, it is inspected at the time. It is not inspected every 12 months or whatever because it is a new dwelling. It is the same with everything else. If new work is done and a huge amount of money is spent, I cannot for the life of me understand why it has to be visited every 12 months. I think that it should be extended further to maybe once every five years, provided work is done on it. It may be different for reservoirs on which no work has been done, when there may be a need to visit those every 12 months. However, I cannot see why a reservoir that has had a lot of work has to be visited every 12 months, thereby putting further expense on the owner.

The Chairperson: I suppose that it comes back to one of the fundamentals: probability/risk.

Mr Porter: There is also the competence aspect. Say you and I have houses built. We are relatively competent to understand that, if there is any significant change, we must call in a builder or an engineer. A reservoir structure is not the same as a house, because it can fail catastrophically, the consequence of failure is much greater, and, therefore, the layperson — the person who happens to own it — is not competent to look at it annually and give any assurance. You need an expert who is, as we have described, the supervising engineer. The role of a supervising engineer is to work with an owner or reservoir manager to make sure that that structure will not cause harm. I see that less as having to call someone in and bear the expense than as having someone who works alongside me to make sure that I do not get exposed to that liability.

I have been thinking a lot about that since our last discussions, particularly about the annual visits. We made an analogy with the MOT test, but I think that we have been hung up with the wrong type of inspection. We are not talking about an MOT test here. An MOT test is more akin to an inspecting engineer. Once every now and again, somebody who is separate from the structure takes a look at it and signs off a certificate to say that it is good to go. The 10-year inspection is much more akin to an MOT test, when there is an in-depth check. A supervising engineer is like a garage man who routinely runs his eye over a car to say that the oil is OK and the tyres look OK when you get your car serviced. That is what a supervising engineer does; he stands alongside the reservoir manager and makes sure that the regime is OK. He takes a look at the structure to make sure that nothing catastrophic is going to happen to it and that it has not changed over time because that is the bit that will catch out people. By doing that, your liability or exposure is limited. We need to get our heads around that.

As I have said many times, I do not mind: we can push this out further, but there is a conflict between what we write into the Bill and the contractual relationship between engineers and whether they are prepared to expose their professional indemnity (PI) insurance to liability. If they see that a reservoir manager is trying to negotiate an arrangement whereby he wants only the minimum standard and no more, and we set the minimum standard as one inspection in five years, engineers will not take that risk because they are in a relationship and are working with a reservoir manager to manage the risk. If we have to push this out in order to bring the Bill forward, I have no issue with it, but I have to be clear that we may be kidding ourselves. If we push it out to one inspection in five years, nobody might get it. We might think that we have produced good legislation that has reduced the burden, but, in fact, we have not because nobody will be able to negotiate that position.

The Chairperson: I take the point about change and simply monitoring and supervising rather than inspecting at a 10-year point. Surely a reservoir could have been there for 100 years and, to all intents and purposes to the uneducated eye, has not moved or weakened. We are now putting on a regulatory burden, from now to eternity, that that reservoir will have to be supervised, with an inspection once every 12 months. So, over three years, one person sets eyes on that structure once, then he sets eyes on it twice and then three times. If there is no movement or difference, or concerns are not raised, is it not a case of saying, "This is not just a snapshot, it is not just a one-off, and we cannot identify change over the past 20 years"? They will have built up a record over three years with three inspections. Surely that would be the time to say, "We have scrutinised and studied the reservoir for three years, and it has not moved. We suspect that it will not move in the next five years". I take your point that making inspection less frequent might mean that no engineer would touch the work, but could we not impose greater scrutiny at the start and then, if a dam does not move or cause

concern, move to a less strict process? I do not know how you write that or whether it would work in practice, even for the engineering work, but you understand what I am saying.

I understand that, if I look at a reservoir once, I do not know whether it has changed because I do not know what it looked like previously. However, if I go back the following year and again the year after that, I will know whether there has been any change. You could put a burden of scrutiny on a reservoir at the start but then relax it once you realise that there is no cause for concern. The impact would still be there and, unfortunately, the term "high-risk" still used, but you are lessening the burden of regulation because you have scrutinised and monitored it for that intense period. Can anything be done there? That, to me, sounds like a compromise through which you may well be able to bring in the engineers. Also, reservoir owners would see that the inspection/maintenance regime could be relaxed after that scrutiny period, if and when they performed or pursued a certain line of work.

Mr Porter: In essence, what you are describing is exactly how we think that this will operate. The first inspection will state what the maintenance regime should be and the number of visits that we want the supervising engineer to make. In many cases, the requirement will be much greater. An inspection engineer will say, for example, that, because there are no records, they do not know whether a leakage is new or old; or what volume of material has been removed from the dam. In that case, initially, rather than seeking the minimum, a supervising regime of three or four times a year will be required until such time as we are satisfied that the settlement happened a long time ago and there has been no further movement. At that stage, we could relax the regime.
I agree 100% that that is exactly what we are trying to write in. Our difficulty is the level to which it comes down to. I am comfortable that it will go up to a higher level than one visit a year and then come back down. The problem with being more specific is that there are, I suspect, many structures that will achieve this on day one: an inspecting engineer will go out and look at a dam and be relatively comfortable that, with a bit of clearing and a few minor works, it will be OK and not cause concern. Specifying a higher standard initially might put a burden on those whose structures do not necessarily need additional work. That is why the flexibility is already built in.

It comes down to whether we are collectively comfortable with this as the minimum standard. As I say, I have no problem pushing it out further in legislation, if that is what is wanted. I am not sure that it would be of much benefit when it came to what people could negotiate contractually. I do not want this to be a sticking point of the Bill. There are more fundamental and bigger issues that we need to talk about. If we need to relax a little further, I am quite happy to do so, but only because I think that doing so would help to move the Bill forward. I am not sure whether it would really help the reservoir managers.

The Chairperson: You are saying that it may not deliver in practical terms.

Mr Porter: Yes. It is also worthwhile remembering what the Institution of Civil Engineers said when it was here. When two visits a year was suggested, David McKillen said that his firm would do that for about £1,000 a year. I suspect that that would be for a single visit and the oversight of a supervising engineer. I will not bind them contractually, but I guess that people are talking about £600 a year. Let us say that £600 a year is spent on a high-risk structure from which the release of water as a consequence of failure could affect 1,500 properties downstream. In the event of failure, I think that we would find it difficult to say that saving the cost of one inspection every other year was of benefit, given that something could have been spotted that bit sooner.

The Chairperson: Yet we do not really know what the impact will be because the initial audit did not tell us that.

Mr Porter: We know exactly what the impact will be. The impact is not in question. The flood inundation maps clearly show that 66,000 people would be impacted. What we do not know is the probability of that occurring.

The Chairperson: Although the inundation is shown in blue, we do not know the force or the run-off of that area. So we do not really know the impact.

Mr Porter: We have accepted that. That is not an issue because we have the differentiation between high and medium. We know that we have that bit of work to do, but we do not need to know all the answers because we have this step, and we know that the water will be lower in those on the lower step. We do not yet know which ones those are, but we will know by the time this is enacted. Fundamentally, your ability to scrutinise the Bill should not be compromised by that because you have

that differentiation between high and medium. The question is whether you are comfortable enough with that differentiation, or do you want to keep high risk at one inspection every 12 months and push out medium risk to once every three years or something like that? That may be as far as you would be comfortable with going. I am not sure whether you are helping anybody because I am not sure that they will be able to negotiate that contractually.

The Chairperson: Are there any further comments on the clause?

Mr Byrne: I do not want to go against the sentiment of what Tom said because I said that I welcomed the change.

The Chairperson: Absolutely. I understand.

Mr Byrne: I am not prescriptive on the final outcome.

The Chairperson: No, I understand. The first change is to have inspection at least once in every 12 months for high risk — "at least" is the key here — as opposed to at least twice in every 12 months. The second change is to at least once in every 24 months for medium risk as opposed to at least once in every 12 months. Are there any further comments?

Mr Irwin: I also have concerns. As the Chairman said earlier, and I have said on a number of occasions, there have been no inspections for umpteen years — maybe 50 or 100 years — but, all of a sudden, we need so many. It just seems over the top to me, but the practicalities of making it work and its being overly burdensome are the problems. I hope that we do not live to regret some of this.

The Chairperson: We will leave it there and move on. Opinions have been voiced. This has always been one of the fundamental issues, and it may never be resolved.

I refer members to the amendment to clause 117, which occurs as a consequence of the amendment to clause 22.

Mr Brazier: Clause 117(3) contains a list of orders and regulations that can be made only when a draft of the order or regulation has been laid before, and approved by a resolution of, the Assembly. I referred earlier to clauses 22(3)(e) and 22(4), which were to be subject to negative resolution. It is now proposed that they come under the draft affirmative procedure. The amendment to clause 117(3) takes account of that, so it is a technicality. I should say that there is a possibility of further amendments to that clause as a result of other as yet incomplete work. If we find that there is no further amendment, we will let the Committee know immediately. However, as it sits, clause 117(3) takes account of the fact that, in respect of clauses 22(3)(e) and 22(4), the regulations therein will be made by affirmative resolution and are added to the list at clause 117.

The Chairperson: OK. We will deal with the wording of clause 117 later.

Clause 120 is the one that we received immediately before we started the briefing. This looks very busy.

Mr Porter: Yes. I will start, and, if you need the detail, Kieran can go through it. This introduces the pause that we talked about. We have gone through the Bill and identified the items that are phase 1. These are the fundamentals that we need immediately: registration, appointing an inspecting engineer and getting the initial inspection report.

Phase 2 incorporates all the recurring burdens in the Bill, and we have a complex list of those. We had to go through the Bill and work out whether something was phase 1 or phase 2 and then draft this amendment. The single most important part is at clause 120 (2A):

> *"No order may be made under subsection (2) in respect of the following provisions unless a draft of the order has been laid before, and approved by a resolution of, the Assembly".*

What we really need to concentrate on is that I do not have control of this pause; you do. When the Bill is on the statute book, all that we will be able to do is the registration and the first inspection, which will allow us to work out whether there is a problem. If there is a significant problem, we can put a paper to the Minister, who could take that to the Executive and potentially deal with some of the

issues. Only when we have quantified that will we be able to bring back phase 2 of the Bill and ask the Assembly to take that forward. That pause is not for the Department to be in control of; it is for the Assembly to be in control of. Kieran can give you more detail, but I question how useful that would be unless there are particular issues that you wanted to be drawn out. Basically, this takes the whole Bill and works through from phase 1 to phase 2.

The Chairperson: I am happy enough. Perhaps it would be better to keep the explanation at a higher level, David. I apologise that I was listening to two people at once, and some members have just walked in. So the amendment will pause the Bill: it will not be enacted until the Assembly is satisfied —

Mr Porter: That is when it will be commenced.

The Chairperson: The Assembly will have the power to commence. That will be on the basis of information gleaned and gathered from the audit of the actual context and scale of the problem.

Mr Porter: Correct. That allows us both to get what we wanted. Your argument was that you did not have enough information to scrutinise the future requirements, so we said, "OK, let's build in a pause and get that information." My argument has always been that I will not get that information because it would shift the fundamental responsibility. This does not change that. We both get to a point at which we have the information to enable us to assess the recurring bits of the Bill. The button will not be pressed on the recurring bits unless the draft orders have been laid before, and approved by a resolution of, the Assembly. It is not for the Department to call via secondary legislation; it has to come back to the Assembly.

The Chairperson: Explain the mechanics of that. What does the drafting of the order entail?

Mr Brazier: I will bring you back to the clause. You are at a disadvantage because you do not have how the clause will read in front of you. Neither do I, but I can help you through this. Clause 120 sets out how the Bill will be commenced. Clause 120(1) details all parts of the Bill that will come in on Royal Assent. So, when the Bill receives Royal Assent, clauses 1, 2, 5 and the others numbered there will come in, together with clauses 120 and 121. That does not change.

Clause 120(2) as currently drafted states that all other parts of the Bill can be introduced as and when the Department decides. That has now been changed through the amendment's introduction of subsection (2A). The clauses listed under (2A) would otherwise be contained in clause 120(2). So the Department can bring in all clauses under Royal Assent except for those listed. That is the crucial bit. This is where all the recurring parts of the Bill are contained: for example, additional inspections by an inspecting engineer and the works required to be undertaken following an inspection report.

The Department requires the commissioning of an inspecting engineer who will provide a report. The rest of the Bill as currently drafted states that, if a report includes directions, they must be followed. Otherwise, the Department will wonder why, and it might lead to enforcement. Those parts of the Bill can be made only when we list them in a commencement order and bring that to the Assembly for draft affirmative resolution. So you have to vote in that part. That is rather than our bringing it as a negative resolution — if you do not say anything, it will come in naturally on the date specified. The Assembly has to physically and consciously agree that those parts of the Bill will come in. Once we introduce this amendment, that power no longer rests with the Department.

The Chairperson: Who is responsible for bringing that to us? Is it the Minister?

Mr Brazier: Yes.

The Chairperson: We talked about there being an initial audit to ensure that we know the context and gravity of the situation. Where is the grant scheme to allow people to employ an inspection engineer to get an initial report? That would enable you to supply us with the information that we need to have confidence in putting the draft order through.

Mr Porter: As I said two weeks ago, in parallel to the Reservoirs Bill, we are bringing in a scheme to assist owners with its initial requirements. We are doing that under the Budget Act, so it is not dependent on this legislation. The business case for the scheme will be entirely focused on the initial requirements, which helps with phase 1. After completing phase 1, we can then work out whether we

need a capital grant scheme. We cannot answer that question now. If we need to introduce that scheme, we will do so under the provisions in clause 105 of the Reservoirs Bill that set out the grants. We do not need clause 105 in phase 1 because we have found an alternative way of offering the scheme to help people with the initial requirements.

As I said, the amendments are with the Minister. Also with her is a letter to the Committee giving an assurance that she will introduce that scheme.

The Chairperson: The scheme is being incorporated into the Budget Bill. Is that right?

Mr Porter: That is correct, yes.

The Chairperson: Do you have any indication of how much financial assistance has been applied for?

Mr Porter: All of this is predicated on our getting an approved business case. However, we have to give an indicative figure of the quantum, purely for budgetary purposes, and we said that we think that we need in and around £200,000 over about a 12-month period. We are relatively optimistic that we will get the first half of that towards the end of the current business year. That profile may well change. It depends on how long it takes us to get an approved business case and how long it takes us to get the scheme in place and people on the ground. We can control that profile.

The Chairperson: Are you reliant, before any work is done on the audit, on the Bill proceeding through to Royal Assent with the main amendment in place and the Budget Bill allowing it to release money? What is the timescale? That will not be within a year.

Mr Porter: We can use the Budget Act as a scheme. The quantum and nature of the work mean that we can introduce the scheme very quickly — much more quickly than a grant scheme under clause 105, because we already have the legislation. All that we are doing is setting out a scheme that the Department wishes to take forward. Subject to the Minister being content with that and our being able to demonstrate that it is value for money through a business case, that is acceptable because it will be approved through the system: through DFP and through the House — through the Budget Act itself. The Budget Act and the scheme are not dependent on this passing, but the business case for it is. Therefore, the two are inextricably linked. Without the Reservoirs Bill, there would be no point giving anybody grant aid assistance to prepare for it. However, we have thought about the risk involved and are content that given the timeline — that is why I keep using the term "in parallel" — I genuinely do not believe that the scheme will have handed out much, or any, money, by the time that this Bill is at an advanced stage and we know whether it will go on the statute book. Therefore, we will have control over — *[Inaudible.]* — if that is necessary. This is not required to introduce the scheme, but the scheme and this are inextricably linked and run in parallel.

The Chairperson: The Budget period is to 31 March 2015. Are you confident that you can take out that resource before the new financial year comes in and you run into all sorts of trouble?

Mr Porter: This is just our profiling. Providing that I can anticipate the spend and make adjustments at the monitoring round, that is normal business for the Department. We do that for all schemes. In every budget line that we do, we continually juggle different pots and different schemes to try to get as close to the targeted closing position as possible. If we need to change the profile because it takes us a while to get the business case through or because the uptake is slower, provided that we anticipate that, it is not lost money. We divert it or offer it up for use by another Department, and there is a subsequent carry-over into the following year. However, for the Department, the figures that we are talking about are very small. Even as far as our agency allocation is concerned, we can manage fluctuations of that size relatively painlessly.

The Chairperson: Is there a timescale or time limit for the audit period in which you entice or encourage reservoir owners to engage?

Mr Porter: There absolutely will be because that is the benefit. We will tell owners that there is a constraint on the help that we can offer. We need to be in a position to say that there are 151 reports and that we can, therefore, quantify the overall position. There is no point in getting 149 and then wondering whether the two that we do not have might be the worst. That would probably mean being no further forward than we are now. So, we need to put a constraint on that. We recognise that there

is work for us to do, because many owners — we have seen this ourselves — are not familiar with their requirements, so they will need encouragement. They will need to be directed to the scheme, and they may need help to understand it. That help is about trying to move this forward. We recognise that we have work to do.

The Chairperson: Although there is a constraint, and rightly so, — I understand exactly what you are saying about the need to get this gathered up — what pressure is on the engineers to conduct the work in that time? Is that realistic?

Mr Porter: Again, we are quite comfortable with that, because an inspecting engineer does not have to be from here — there is a long list of inspecting engineers. An inspection involves visiting a site to inspect and view the assets of the reservoir and then writing up a report. There is not a recurring requirement that you have to be available at all times, so somebody can quite easily fly in and do a report. If you can get a better price from a bigger firm in England, I can see that being a very realistic proposition, with people coming in just to do the initial inspections. I genuinely do not believe that it will be an issue.

Mr Byrne: I welcome the general thrust of what David outlined about trying to put a quantum of money together, separate from the Bill, to try to do an audit report. That would mean that you are starting from a reasonable position where you understand that it will take a wee bit of time to encourage all private owners to accept that they have some responsibility and to make them aware that help is there for them to get the report done.

The Chairperson: Do any other members want to comment on the main amendment to clause 120? It is basically a delaying amendment so that we can be reassured of the context and the risk. Any further comments?

Mr Brazier: May I clarify something in case it skipped your attention? We referred earlier to the clause on the number of visits by a supervising engineer. Just in case there is any confusion, that will be in phase 2 of the Bill, because it is a recurring responsibility.

Bringing forward the commencement orders does not give the opportunity to amend the Bill. I am just making that clear, in case members felt that that was an opportunity for further scrutiny of the Bill. Once the Bill is made, it is made, and the commencement orders will reflect what is in it.

The Chairperson: So, all a commencement order does is commence a part of the Bill —

Mr Brazier: Yes, what is in the Bill.

The Chairperson: — that needs to be triggered. What needs to be triggered is an Assembly vote on that. So, the clause is as it is whilst we scrutinise it and go through the stages of the Bill.

Mr Brazier: Yes. I did not want members to feel that they perhaps had another opportunity at some stage to change clause 25(2)(k).

Mr Porter: The whole Bill goes on the statute book. Certain elements of it will commence on Royal Assent. That will start phase 1, and then phase 2 will commence at some future point. The whole of the other requirements in the Bill may not even be commenced at that point, because, as was said, we have future-proofed elements of this that we may not start even with phase 2. So, there could be various commencement orders or other regulations that have to be made.

The Chairperson: I understand. Are there any other comments on clause 120? There are no further comments at this stage. On the same paper, can you clarify what the related amendment to clause 29 is? It may just be technical.

Mr Brazier: It is consequential; it is about the timing of inspection reports and such.

The Chairperson: OK. For clarity then, after the Bill goes through in its entirety, with all the letters and words win it as is or as amended, what will phase 1 look like? I am sorry for my loose terminology, but phase 1 will be an audit phase.

Mr Porter: Yes; it will put on the statute books and commence a legal definition of a controlled reservoir; it will define a reservoir manager and that hierarchy and will put in a requirement that you register; it will make the Department the reservoir enforcement authority and will allow a public register; and it will require the appointment of an inspecting engineer and the initial inspection. Those are the bits that allow us to find out for sure who owns the 151 reservoirs that we are dealing with, the condition they are in and who are the reservoir managers. Everything else after that is not included in phase 1 because it is about the recurring elements of the Bill.

The Chairperson: Are members content with that? Are there any further questions?

Mr Buchanan: In phase 1, there is no cost to the person who owns the reservoir. Is that right?

Mr Porter: There will be cost, but there will be a grant scheme in parallel to the Bill under the Budget Act that will give a contribution towards it. We are working through the business case at the moment to work out what that contribution is, what the mechanism for payment will be and whether we will do it by lump sum or pay actuals with a cap. That is the stuff that we are going through in order to justify the business case.

I said before that when the business case has been developed I will be happy to come back and say, "We thought that it looked like this, but now we have had our thinking, this is what we have fleshed out." I am happy to do that if that would be helpful.

The Chairperson: That would be good. Since the Committee for Finance and Personnel will be considering the Budget (No. 2) Bill this week, are members content that we write to it to ascertain whether provision for financial assistance for reservoir owners and managers has been allowed for in the Budget (No.2) Bill, how much is that provision for; when will the moneys need to be spent by; and whether there any other conditions, i.e. a business case and timeline, for approvals?

Mr McMullan: I am sorry, Chairperson; how long will that money be there for?

Mr Porter: Again, we need to flesh that out in the business case. We may do it over a 12-month period, but the other option, if we can get it in now, is that we might end up with the rest of this business year and all of next business year. At least that keeps us —

Mr McMullan: It will be over a two-year period.

Mr Porter: Yes. It will be a year and a half in practice, but it will be over two financial years. It is definitely in two financial years; that is unquestionable. We have not even profiled it over one financial year. The question is whether it is over the 12 months of the second financial year or over six months of it. That is something that we will firm up, but it is absolutely over at least two financial years. I do not think we could spend it and deliver it over one year.

The Chairperson: Are members content that we write to the Committee for Finance and Personnel for clarification on those issues?

Members indicated assent.

The Chairperson: The proposed amendments to the Reservoirs Bill that the Rivers Agency is not recommending to the Minister can be found at pages 178 to 180 of your packs. I ask Rivers Agency officials to take members through the clauses that are not to be amended. Can we start with clause 6(8), which is to do with reservoir managers? It starts off at clause 6(8), followed by clause 15(1)(c). Are you happy enough, David?

Mr Porter: Yes.

The Chairperson: Do you know what you are looking at?

Mr Porter: Yes, I do.

The Chairperson: Please take us through each of those clauses, starting with clause 6(8), which is to do with reservoir managers.

Mr Porter: We have had a look at it again and are content that it is accurate. That is the avoidance of doubt question. Work will be done on a designated watercourse, and the starting position is that we are not the reservoir manager. That has not automatically transferred responsibility to us. There may be cases in which we are part of the previous arrangements, and we talk about it as a cascade.

What we do not want is people saying that, because it is a designated watercourse, we must own it. There are two different pieces of legislation: one, the Drainage Order is about the free flow of water; the other is about reservoir safety. Unless somebody can demonstrate that we were a reservoir manager, the responsibilities on us to maintain the free flow of water would not relieve somebody else of that responsibility. That is what the clause sets out.

The Chairperson: OK. What about clause 15(1)(c)?

Mr Brazier: I will take that one, Chair. That is about a reservoir manager notifying the Department of any change in ownership. There was concern about the defence at clause 16(5), which deals with a person not knowing that they were a reservoir manager. From memory, the example was given of a reservoir manager who dies and his or her family did not know of their ownership.

We do not intend to amend the provision. If a reservoir manager dies, the responsibility for notifying the Department dies with him, and we would not pursue it in those circumstances. If a reservoir manager has transferred responsibility for the reservoir to someone else, he or she should know who that person is and would be responsible for letting us know. We do not feel that the circumstances exist in which there would be a need to amend that clause.

The Chairperson: If I am reading it right, clause 16(5) gives a defence. Is that right?

Mr Brazier: Yes, if that was required. If they do not know, they can simply say that they do not know. We would not enforce that. We would know that beforehand from our investigations and research into it, and we certainly would not pursue enforcement in those circumstances.

The Chairperson: So although you see a defence in clause 16(5), you do not feel a need to amend clause 15(1)(c).

Mr Brazier: Yes.

The Chairperson: There are no comments on those clauses, so we will move on. Clause 17(2) deals with giving a risk designation.

Mr Brazier: That is about the use of the word "risk". That is one of the fundamental issues in the Bill.

The Chairperson: I suppose that there are two distinct issues: the label attached; and the regulatory burden of the labels. No matter what you call it, it will be the same burden.

Mr Brazier: Yes; that is it.

The Chairperson: You talked about changing "high risk" to "high impact" or "high consequence". If you are told that you are living beside something that is high-risk, it will frighten the bejabers out of you. How do you get round that, and how can you justify keeping the word "risk" in?

Mr Porter: We looked at it to see whether we could change that word. In certain aspects of the Bill, we could have. It becomes problematic when we came to clause 22, which deals with matters to be taken into account under that section. That clause clearly sets out the concepts of "adverse consequences" and "probability", which deal with the risk. Risk is properly defined in the Bill as impact and consequence. If we took out certain aspects and made it something other than risk, there would need to be a wholesale rewriting throughout the Bill.

I have thought a great deal about the fundamental issue of whether it is risk-based. It clearly is. Our problem is not about risk when we assess this; it is that the industry does not have an agreed way of quantifying probability. When it does, the legislation will accept it. When it has got an agreed way, if somebody then does work on a structure, as has been argued quite a few times, in the future that risk classification may change because of the way this is written.

We are trying to be as open with you as possible at this early stage. I cannot see an agreed methodology to determine probability; that is not on the industry's horizon as far as I can see. That is why we keep coming back to its being predominantly consequence.

To try to give you some comfort that we are not taking a sledgehammer to crack a nut, we still have high and medium. If there is harm to life, the question for the Department is whether it is high or medium. If we think that the harm is death, then that is high; if we think that harm is not death, that is medium. There has to be a judgement call. In a likely failure mechanism, if I may use that term, how quickly will that water be released? Where will be harmed by that flood inundation?

For example, even though there are properties around a reservoir, we would be saying that, based on the flood inundation maps, that although that property would get wet, death is unlikely. Therefore, we are trying to take that into account. We cannot do it in as black and white a way as you would perhaps like to see: if you invest x amount into this reservoir, you get this benefit by the changing down. However, the legislation allows for that. I am being honest with you: I do not see that we will be able to introduce something like that in the foreseeable future.

The Chairperson: That is an interesting point. You said that you do have consequences because when you invest and do the work that is required, your inspections will reduce. That is OK. You also talk about — I am struggling to find a way of putting this. I will come back to it.

Mr McMullan: I know that you struggled with the wording, but the only thing that would worry me about that categorisation is insurance. If somebody sees high risk, it will be a high-insurance area for everybody living around the reservoir. It could also affect building in the area. Something needs to be built in to assure insurance companies and the new planning service, which will be the responsibility of local authorities, that this is only in a word.

You talk about no death and just wet. That should not affect planning in the countryside for a house on a farm, for example. Moreover, it should not give insurance companies the opportunity to rocket insurance policies. I can see that clause being used to do that if we do not build in some mitigation.

Mr Porter: We have two issues: planning and insurance. I need to deal with those differently because they are different approaches. In planning, we have the new draft PPS15 under FLD5. The new draft deals specifically with reservoir inundation. Although in a river flood plain there is a clear presumption against, in a reservoir inundation there is not.

Mr McMullan: That is in that already?

Mr Porter: Absolutely. It is FLD5. It went out to public consultation and is being finalised. It says that there are certain types of building that you may not want to put into it, and it lists essential infrastructure and homes for "vulnerable groups". So if you are going to build an old people's home, right below a reservoir may not be the best place — somewhere different may be. However, if you are going to build a normal dwelling house below a reservoir, as I have said before, provided the reservoir is inspected by somebody competent and the works identified are carried out, it is absolutely perfectly safe to do so, as far as is reasonably practicable and as far as we can give assurance. It is perfectly safe to live below a reservoir, although you may want to think about the types of things that you are putting in that area. It is more to do with, in the event of failure, how you evacuate people, or where you have critical infrastructure below the reservoir. That could mean that, in the event of failure, the pain is not just felt in the local area but, potentially, right across the Province, for example. However, I am content that, under PPS15 and FLD5, that is very well addressed.

The Chairperson: I have got back my train of thought.

Mr Byrne: That is a dangerous term to use. *[Laughter.]*

The Chairperson: With regard to the probability that you talk about, that is not here yet, in the engineering world, how is that practically inserted in the Bill, if it appears?

Mr Porter: It is under clause 22(1)(b).

The Chairperson: What does that look like?

Mr Porter: That is the first place that it appears. For instance, the industry might agree a methodology for assessing different types of structures and materials of different ages. It is, in fact, the list that is included under clause 22(3), where you have:

(a) the purpose for which the reservoir is (or is to be) used,

(b) the materials used to construct the reservoir,

(c) the way in which the reservoir was or is being constructed,

(d) the age and condition of the reservoir and how it has been maintained,

(e) such other matters as the Department may by regulations specify.

If the industry comes up with something that does that, the Bill can, without any change, adopt it, because it says there, in black and white:

"the probability of such a release."

We needed some wriggle room in the absence of that, so we have written down the things that we might take into consideration. This will not be: "Here is a numerical way of calculating". Rather, in our assessment, the way we see this going forward is that an assessment panel will be set up to determine the designations. The panel will look at the flood inundation map and will also take the information from the structure — where it is, what it is constructed of — and will come up with a "likely failure mechanism". That likely failure mechanism will determine whether the reservoir is medium or high risk. I am not prepared to go so far as to say that we are taking probability into account, because I know, in my heart of hearts, that it is not a numerical probability calculation. However, it is as close as I can get to it without trying to get the industry to move as well.

The Chairperson: I understand. Are there any other questions on risk designation and all the aspects of it?

Mr Brazier: That takes us back to clause 22(3)(e):

"such other matters as the Department may by regulations specify."

We wanted to keep that in. We wanted it to be clear that, if we were bringing forward regulations under probability, that that is the clause that we would bring them under. It is the draft affirmative procedure, so the Assembly will have the opportunity to comment on it.

The Chairperson: There are two other clauses that you are not going to amend. Clause 105 "Grants" and clause 106 "Assessment of engineers' reports etc."

Mr Porter: The "Grants" clause is relatively straightforward, in that the reason why we were asked to modify it was to allow for an initial grant. Now that we have found a different mechanism of bringing in an initial grant, clause 105 does not need to be modified. We have found a different mechanism, so we do not lack clarify with it.

The Chairperson: However, it is still in there?

Mr Porter: Yes, because we may need it at some point in future, so we do not want to lose that provision or power, but we do not need to amend it to clarify that we are going to bring forward an initial grant. We are comfortable with that.

The Chairperson: OK. Let us turn to clause 106.

Mr Brazier: The Committee had concerns about the scrutiny of costs.

The Chairperson: Yes, overengineering.

Mr Brazier: Scrutiny of overengineering. We have looked at this really hard, and, from our legal advice, we are concerned about putting something into the Bill that would be considered as the Department over-regulating or which may compromise other EU law on contracts. There is just enough doubt there currently. We are very reluctant. We fully understand the Committee's concerns about this, but there is enough doubt around putting something in the Bill that would give the Department a regulatory role around monitoring costs and questioning the costs that a reservoir engineer is charging a reservoir manager.

On overengineering, there is no one in the Department or in government who can fulfil that role. The only people who can look at what a panel engineer is suggesting is a reservoir panel engineer, and we have included in part of the Bill the dispute referral mechanism around that. I know that there were concerns around that, but, if there were an easy way of putting it into the Bill, we would be more than happy to do that. However, we are concerned that it would start to compromise the Bill. We are still talking to our legal advisers on this, and we will come back when we have the stated position. At the moment, we are being advised against putting anything into the Bill in that regard.

The Chairperson: Is that advice that you have received in written form?

Mr Brazier: Yes.

The Chairperson: Can we see it? Some of the members are not here, but this is one of the fundamentals.

Mr Porter: The other thing that is worth saying is that we are not opposed to doing this administratively. So, if we can find a different way of doing this, while we have no panel engineers, I have no problem with the agency challenging reports or the quality of reports or, if needs be, the cost of reports administratively. The issue for us is putting it in the Bill to make it a regulated function, because, as soon as you go down the route of making it a regulated function, you need a body to scrutinise that, and I genuinely do not believe that it requires another body to be overseeing this. I genuinely do not believe that it is a problem. I know that it is hard to convince somebody of that until we are running the process, but the experience in England is that this is not a problem.

Mr McMullan: It may not be a problem in England, where you have quite a lot more engineers. Here, we do not, and that is the problem. We talked about flying in engineers, for want of a better phrase, from England and all over. That is extra expense for us. We will be faced with this extra expense, so, while legal opinion is that they do not think that this is a problem, obviously, they think that there is need to talk about it a bit more. Therefore, at this stage, we cannot put it in there. I think that we need to keep that out until we find a way around this, because we are marginalised here in not having the number of engineers who are suitable to do this job. If we are going to be taking them from elsewhere, that will bring an extra cost. They will not come this far without extra cost. Therefore, we have to get that worked out. Anybody who has a reservoir must have an idea of the costings before it happens. There is nothing to stop the 11 local authorities getting together and hiring an engineer. The costs would be shared out across the 11 councils, but an individual would have the total cost. So I think, secondly, that if we do not do that now, the all-powerful people in the Bill will be the engineers. After what you said, there does not seem to be any regulation of the engineers. We need to go back to find some sort of regulation of engineers, because the Bill is predicated on engineers without imposing any control on them. I am not saying that in a bad way.

Mr Porter: And I did not take it in a bad way. Overengineering is dealt with in the quality of reports. So, again, there will be no issue if somebody is specifying something that we would question.

Mr McMullan: But you cannot question an engineer because, to use your words, the only people who can question an engineer are engineers. The gamekeeper quickly becomes the poacher.

Mr Porter: In a case like that, we would refer it to the reservoir committee of the institution, and its role is not to produce a report or to be a supervising engineer or inspecting engineer but to be the gatekeeper that allows those competent people onto that list and recommends to us people to put on the panel. That committee would take a dim view of somebody over-engineering or overcharging. From a professional point of view, the committee would bring a penalty against an engineer for doing that. That happens not only with reservoirs but with all other engineering functions.

An example that I read of recently was that of an engineer who had not agreed a price beforehand. A private individual then got a bill that was larger than expected. They complained to the institution, and the engineer had to appear before the panel to justify the bill and was then charged with a disciplinary offence. So, there are other ways of getting at engineers rather than just through the Bill.

The other issue is that the number of engineers here is low because there has not been any of this work. We are now starting to see that change. Although it has predominantly been from a single firm, we are now seeing at least one other training a supervising engineer, as we speak. In fact, it was Stephen Orr, who gave evidence here. He was a trainee supervising engineer from a different firm from David and Alan. The market will develop.

Mr McMullan: That is if the engineering fraternity allows those numbers to go through and be trained. It can regulate the numbers that are being trained.

Mr Porter: No, it cannot.

Mr McMullan: I will come back to that. You said that the committee —

Mr Porter: The reservoir committee.

Mr McMullan: Well, there you are: it should be setting the fees and all of that. If it is the regulating authority, it should be regulating the fee, because, if somebody gets a bill that is more than they expected, how do they know what to expect? That could be the standard rate or it could be too high, whatever. Therefore, the reservoir committee should have that information; its members should become the people with that information. Maybe we have hit on the answer of how to get round it.

Mr Porter: If only it were so simple, I would be delighted and I would take it to them. We have no issue with putting out what the costs are. We are on record with ours. We went out to competitive tender, and it cost £2,250 per inspection. That is what the costs are. We have no problem with publishing that. Our published consultation documents already have an indication of the costs. We have no problem, administratively, putting that type of information out. The problem is that, if we write into the Bill that we will regulate costs, that is a whole body of work outside reservoir safety that I am not sure we can justify doing. That is because I am not sure that we have seen evidence that this is real and will happen.

Mr McMullan: We have regulated other things legally in the Bill. I cannot see that as being a problem. There has to be a safeguard for the reservoir owners in there somewhere. If there is not, it is open season for the engineers. That is all that I have to say on it.

Mr Porter: You have to be able to demonstrate that it is a potential problem that needs to be solved. I accept that it is a concern. However, there are other ways of getting costs that you do not know. For instance, if a normal person who is not involved with the building trade were to build a house, that person does not know what a house costs to build. What they do in that case is to get three quotes. They look at them and say, "Well, this one is offering this and it costs x; this one is offering something different and it costs this; and this one is the outlier." So, there are other ways of getting costs. It does not necessarily need to be a relationship in which you would just go and get one cost and pay that. Certainly, I would not see it as that. There is a long list of reservoir engineers out there. Keep pricing until you get a service and a cost that you are content with. Maybe by asking enough of them, you will convince yourself that this is what it costs and this is what you will have to pay.

Mr McMullan: OK. Very quickly; how many engineers can I go to for a price in the Six Counties here?

Mr Porter: Currently, two firms have supervising engineers who live in Northern Ireland. However, many firms will supply the service here. I hear that there is an additional cost. However, sometimes I have to smile to myself when I travel. I fly to London very regularly. The last time I was over there, I had to get a train from London to Birmingham. It cost me more to go on the train than it had cost me to fly over. So, while I accept that there is a cost, I am not sure that it is disproportionate when we compare it with the cost for people in England who might have reservoir managers closer at hand. It is not that dear to fly here for an inspection once every 10 years. I do not see it as a disproportionate cost or a cost that would actually stop the tendering process, at least.

The Chairperson: OK. Are there any other comments? Are you finished, Oliver?

Mr McMullan: Yes. Sorry, Chair. Thank you.

The Chairperson: Very good. You outlined my concerns and sentiments exactly, Oliver. There is no problem that way.

There are still a number of outstanding amendments. When can the Committee expect to see them? We are at the point where we just cannot wait any longer.

Mr Porter: We recognise that entirely. While it looks like there is a long list, a lot of them are interrelated. As I said, we have them drafted. So, when we get the release on one issue, it will actually release two or three of them.

Mr Brazier: I can outline where we are with each one. The Examiner of Statutory Rules suggested the amendment on appeals to the Water Appeals Commission. What that is intended to do is to give OFMDFM the regulatory power to allow the Water Appeals Commission to charge fees and award costs. The Bill as it is currently drafted gives the Department those powers. The Examiner of Statutory Rules identified a conflict of interest there. We have raised that with OFMDFM. We await a response.

The Chairperson: OK. Sorry, members; we are on page 177 of your packs. Go ahead, Kieran. I am sorry that I interrupted you.

Mr Brazier: We talked to them just before we came here. The Water Appeals Commission is considering the proposals. We hope to meet it tomorrow or the following day and to have something with you. I would love to be able to say that, yes, you will have that on Thursday. We will try our utmost to have this and the others with you so that the Clerk can issue papers to you on Thursday.

Mr Porter: It is worth reiterating that we have them drafted. Everything is sitting ready. All that we need is the agreement that people are comfortable with what is written. That will release them. So, we have them.

Mr Brazier: The other amendment that relates to the Water Appeals Commission is on cost recovery. The Committee was very concerned to see that we made that amendment. It was to introduce a discretion for the Department. On advice, we did that and made the amendment. The advice was that, once the Department makes a decision on whether it will or will not seek recovery, it introduces, under the European Convention on Human Rights, the right of appeal. That is what is keeping us, because we have now asked the Water Appeals Commission whether it will agree to considering appeals under those clauses. There are about four or five clauses. We are waiting on a response. So, we are with the Water Appeals Commission on two of those issues and are hoping to have them resolved.

There is another clause on defences. If a reservoir manager is given a direction by an inspecting engineer to do something on his reservoir and he feels that it is in breach of some European law and does not follow the direction, the defence would be that he did not follow it because he was fearful. Our first position on that was that we would not enforce in those circumstances, but we are making it absolutely clear in the Bill that we would not enforce in those circumstances. We are dotting our i's and crossing our t's on that one. We are very hopeful that we will be able to come back to you very quickly on that one. As I say, all the amendments are drafted, and it is just about getting all the dominoes in a row and getting it signed off.

The Chairperson: OK. We are also waiting for letters from the Minister, which we need to have, too. Whilst you may have made arguments that we cannot have things in Bills, we really need as much information as possible, including letters of clarification from the Minister, and that will then be judged on its own merits. The one that Oliver and I have spoken on is clause 106, and it is fundamental. It is one of those. I do not know how we can meet.

Mr Porter: We have no argument against that one on principle. In fact, we have said that. Our difficulty is in doing it in the Bill, and so we are dealing with the legal bit. If we can find a way, we will do it.

The Chairperson: You talked about the will of the Department or Rivers Agency to pass things on to a scrutiny body. We want some sort of clarification or even some guarantee from the Minister that that

is the will of the Department. We want as much as possible for us to make judgements. The more the better.

Mr Brazier: OK.

The Chairperson: Clauses 17 and 106 have been dealt with.

Does any other member want to say anything now? Next week, if all goes well and we have the amendments in front of us, we will go into formal clause-by-clause scrutiny, so, if any other member has any other comments to make, this is the time to do it.

Members, we now have a fair idea of how far the Department and the Minister are prepared to go regarding amendments, even if we have not seen all of them yet. I ask members to start thinking about any additional amendments that they may want and whether they wish those to be Committee amendments. We definitely want that for next week. Next week is the point when we move into formal clause-by-clause proceedings, and any members who wish to bring amendments for the Committee to decide on must do that for next week.

Gentlemen, thank you very much for your time to date. It was very informative, as always.