



Northern Ireland
Assembly

Committee for the Environment

OFFICIAL REPORT (Hansard)

Carrier Bags Bill: Informal Clause-by-clause
Consideration

7 November 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Anna Lo (Chairperson)
Ms Pam Brown (Deputy Chairperson)
Mr Cathal Boylan
Mr Colum Eastwood
Mr Tom Elliott
Mr Alban Maginness
Mr Ian McCrea
Mr Ian Milne
Lord Morrow
Mr Peter Weir

Witnesses:

Ms Jennifer McCay	Department of the Environment
Mr Donald Starritt	Department of the Environment

The Chairperson: I welcome Donald Starritt, the head of policy and legislation on the carrier bag levy team, and Jennifer McCay from policy and legislation on the carrier bag levy team. Members will consider responses from the Department of the Environment (DOE) to issues raised by the Committee at the last consideration session before moving on to a more general scrutiny of the clauses.

I refer members to the three responses provided by the Department. There is a response on the possibility of deferring the commencement of the legislation; that issue was raised by the retail sector. The Department says that it plans to introduce the extended levy two months after making the final regulations. The Department also agrees that it would be useful to specify the implementation date in the Bill and will now consult the Office of the Legislative Counsel (OLC) about the best way to achieve that. Do members have any comments? Would that be after the final regulations? Is it right that the regulations will come after the implementation of the Bill?

Mr Donald Starritt (Department of the Environment): Once the Bill has run its course and after the Final Stage, there is usually a period of up to six weeks to get Royal Assent. Only after that can the Department bring the regulations back to the Assembly.

The Chairperson: How quickly will the regulations be implemented or passed?

Mr Starritt: We will bring them to the Assembly roughly three months after the Bill has completed its Final Stage. There will then be two months after the debate on the regulations, so there will be another two months before charging comes into effect.

The Chairperson: It would be useful if we had the implementation date. Let us know about that. We have been talking about April 2014 as the date, but are we now talking about June 2014?

Mr Starritt: It is difficult to say without knowing when the Final Stage will take place. Say, for the sake of argument, that the Final Stage is completed in January 2014, which is perhaps reasonable, Royal Assent might then take place in March. So the regulations will come in only in April, and two months after that would be June or July.

The Chairperson: That would be the earliest date. Is that what you wanted to ask?

Mr Boylan: Yes. That is grand.

The Chairperson: The next departmental response is about details of the amendment requested by the First Minister. The Department indicates that an amendment will be brought forward at Consideration Stage to introduce a provision for an ad hoc review of exemptions. This will be in addition to the general review of the levy after three years, which is in the Bill at clause 9. The Department has attached the wording of the proposed amendment, and the Committee welcomes this. Certainly, we have heard that there is confusion about exemptions. Have members any comments about this? No. We will move on.

There is a departmental response about further information on the carrier bag levy in Wales. The Welsh Government are consulting on an extension to the Welsh Minister's enabling powers under the Climate Change Act 2008. The proposal is that minimum charges could be set for reusable plastic bags, if evidence shows that such changes are necessary. I am sure that the Welsh Government are watching us because we are taking the lead on this. Have members any comments on that?

Let us move on. At each clause, I will briefly remind members of the issues that have been raised. This is only the informal consideration of the clauses to establish whether we have all the information. If you need further information or think that we should make amendments, let me know. We are not starting the formal clause-by-clause consideration until next week.

Clause 1, "Extension of the 2008 Act to carrier bags", represents a major change in current policy by omitting the term "single use" from carrier bags subject to the levy. I remind members that there have been concerns about the extension of the levy to cheaper reusable bags. Those are, for example, about the timing of the legislation. The retail sector says that it needs more time to prepare and educate customers and consumers and that we need more hard evidence on consumer behaviour. People also expressed concern that consumers may be confused by an extension of the scope of the Bill to reusable bags for life and that it may be difficult to sell that message to the public.

The third major concern is that the Bill does not promote the use of biodegradable bags, nor does it propose an outright ban on single-use bags. Those issues were raised by the Environment Link. Are members content with the Department's response to the Committee's request for an amendment to defer commencement?

Members indicated assent.

The Chairperson: Do members wish to raise any further issues, or are you broadly content with clause 1?

Members indicated assent.

The Chairperson: Sorry, Cathal, did you say something?

Mr Boylan: That is a first. *[Laughter.]* Mark that down and record it properly in capital letters.

Chair, you spoke about getting the proper message out. Some people are still not too sure about what they are going to be charged as a levy for recyclables. It is important to recycle bags and to get that message out properly, because people have been asking me about reusable bags.

The Chairperson: Let us just say that communication is vital.

Mr Weir: I am broadly content up a point. I appreciate that the Department has gone some way about a delay in commencement, but I am not convinced that the timescale is sufficient. Let me put it this way: I may not necessarily press for a Committee amendment today, but I may look for a longer time frame. I want to think a wee bit more about what the appropriate time frame is. The timescale may be —

The Chairperson: I do not know whether you were in the room when we were talking about it possibly being June or July, but perhaps you think that that is still not long enough. What would be the impact if it were to be April 2015? Would that be difficult for the Department?

Mr Starritt: It is difficult for me to answer that. *[Laughter.]* My view is that I can see the logic in requesting a longer time frame. From what I have heard, even from the retail sector, I am not sure that that period of time would be needed. There may be a compromise.

The Chairperson: Are retailers saying that they do not need that length of time?

Mr Starritt: No, I am not sure that they would need as long as that after the Bill comes through. Hopefully, the Bill will be through by January 2014, which would give 15 months, and I am not sure that people would need that period of time.

Ms Brown: I sympathise with retailers in their request for a delay, and I know that some talked about a delay of eight, nine or 10 months being helpful to them because of their IT systems. However, because phase 1 was so recent and so successful, I think that you may need a much longer lead-in time because of the consumer confusion that will be caused.

The Chairperson: Is it right that the commencement date will have to come back to the Assembly?

Mr Starritt: Yes, the Department would bring to the Assembly the regulations, in which we will declare the operational date.

Mr Weir: Chair, I will try to clarify that. Regulations that presumably contain a commencement date are brought back to the Assembly. Given that they are regulations, it would presumably be a case of accepting or not accepting them. There would not be —

Mr Starritt: That is right.

Mr Weir: There is a little bit of a problem there, in that there is no scope for direct amendment; you always have to go to the nuclear option of throwing out the entire regulation. To be fair, I am not entirely comfortable with naming a particular date today, but I would be more comfortable if the delay were in the Bill rather than being happy that the regulations were or were not on time.

Mr Starritt: I think the —

The Chairperson: The commencement date will be in the legislation, so we will name the date.

Mr Starritt: As it stands, it is not in the legislation.

The Chairperson: No, but will it be?

Mr Starritt: No, the date will be in the regulations. As the Bill stands —

The Chairperson: It is in SL1s.

Mr Starritt: I can understand that retailers have requested a longer lead-in period. I am not sure how long is needed, but I can understand that. The main thing that consumers will notice is that bags for life in the major supermarkets will become dearer. It is not the same culture shock — maybe it is still a culture shock, but it is not the same — as introducing a charge for something that was previously free.

Mr Weir: That is true up to a point. In one sense, if people are suddenly faced with an increase, so be it. There is a counterintuitive logic that bags for life, although they are cheap, are now being charged

for. From the point of view of consumers, it is not simply a matter of discovering that those bags are a bit dearer. It is an education process, and a certain lead-in time will be required. Although the commencement date will not be in the Bill, one way around that might be to table an amendment that states that certain regulations should not be put in before a specified date so that there is a delayed commencement date.

Mr Boylan: I have no problem supporting such a proposal. There is no proposal on the table today for a Committee amendment, but I would certainly look at that commencement date.

The Committee Clerk: We could ask the Department for an assurance that you would bring forward that type of amendment. You have said only that you are going to consider it at the moment — is that right?

Mr Starritt: We have said that the Minister has agreed to delay commencement until two months after the regulations. I suppose the options are that we can bring that back, or the Committee can propose something when it brings forward the report.

Mr A Maginness: I am not familiar with all the issues in the Bill, but what delay period are colleagues putting forward? I am not certain. I know that retailers want it and so forth, but what would be a reasonable delay?

Mr Weir: I am not going to draft an entire time frame on the hoof. There is talk about a two-month period, but retailers have said that, to get the IT systems up and running and for staff to be trained, they might need an eight- or nine-month period. That may be the sort of time frame that is being looked at. It would not be doctrinaire and specific.

Mr A Maginness: It would at least give some guidance to the departmental officials today if they were aware of it.

The Chairperson: The officials' response is that it does not take that long for them to change IT systems.

Mr Weir: You mean from the Department?

The Chairperson: Yes.

Mr Weir: Yes, but with the best will in the world, we have first-hand evidence from retailers. I appreciate that there will always be a wee bit of bias and self-interest. I am not denying that, but retailers are saying that it will take eight months. The Department has an opinion on how long it will take retailers to make a change. If we look at who is in the best position to judge that, even though there is some self-interest, I would have thought that the retailers themselves are in the best position to say how long they feel it would take to implement that. There is also a separate issue in that lead-in time is needed for consumer education. Although I understand the merits of what is being said, there is an element that is counterintuitive. There has to be a bedding-in period.

The Chairperson: Perhaps we should find out about the Department's timetable for communicating all this. We have been told when the television campaign will start and when the Department will be talking to retailers. Perhaps that will give us a clearer indication of how you are going to roll out the communication campaign.

Mr Boylan: I have listened to what the departmental officials said. I agree with what Pam said about communication, and I have further concerns about consumers. The industry has asked for time, but, from a consumer point of view, there does not seem to be a big gap between introducing the first phase and the full roll-out. Consumers need an extra six months or whatever. I support that, as well as all the messages about communication not only for the industry but for consumers.

The Chairperson: The other side of the argument is that there has been a massive increase in the sale of reusable bags. We do not want reusable bags being a substitute for single-use bags. That is the rationale of the levy on cheap reusable bags.

Mr Boylan: In the grand scheme of things, a number of months will not make much of a difference. The levy has gone well, and consumers have bought into it. It would not be unreasonable to ask for a period of time, whatever that might be.

The Chairperson: Will we ask the Department to think about a longer commencement time than two months?

Mr Weir: If the Department comes back with a specific amendment, we can look at it. If we feel that there is adequate time, fair enough, and if we feel there could be more time, we could make that clear. That might be the way to take it forward rather than looking at it, because something concrete would be put down.

The Chairperson: Are members happy with that?

Members indicated assent.

The Chairperson: Clause 2, "Regulations under Schedule 6 to the 2008 Act", gives power to the Department to increase the minimum amount of the levy through affirmative regulations and to exercise discretion in how it applies to charging the requirements. We do not have any concerns on this clause, so are members content that we move on to the next one?

Members indicated assent.

The Chairperson: Clause 3, "Requirement to charge", clarifies that the charge will apply to bags whether they are used to carry away goods or not, provided they are capable of being used to do so. We were broadly content with the Department's explanation that the purpose of the clause is to close a loophole in existing legislation. Are members content?

Members indicated assent.

The Chairperson: Clause 4, "Sellers", gives the Department the power to specify retailers by the number of full-time or full-time-equivalent employees that they have. Donald, remind me: does that mean that they are subject to the levy?

Mr Starritt: It is a future-proofing provision. It would allow the Department, at some stage in the future, to define that certain groups of sellers could be exempted from the levy. We do not propose to use that at the moment. It is simply to make the Bill a little more flexible.

The Chairperson: It depends on the number of people whom retailers employ. Is it right that, in the future, a corner shop may not be subject to the levy?

Mr Starritt: That is right. You could use it to exempt smaller stores. You could also use it to make the requirements a little different for certain groups of sellers when it comes to implementing the levy. It is to give a little more flexibility in the future, should that prove necessary. Otherwise, we would have to amend the Bill, which would require primary legislation.

The Chairperson: Are members content with that?

Members indicated assent.

The Chairperson: We will move on to clause 5, "Payment of the charge". This clause gives the Department powers through affirmative regulations to stipulate how the proceeds of the levy are to be paid over and to charge interest on payments received. I do not think that we expressed any concerns about this clause previously.

Are members content with clause 5?

Members indicated assent.

The Chairperson: Clause 6, "Carrier bags defined by price", extends the definition of carrier bags to be specified by price as well as the existing technical specifications. The Minister has indicated that there will be a 20p minimum price threshold.

Members, we wanted to see at first hand the range of bags that are available at local supermarkets. Committee staff will pass round a selection of those bags. This was your suggestion, Alban, is that right? *[Laughter.]* You can sample all the bags. You need to check them all to see whether you like the texture, Alban.

Members, we have looked at the range of bags. Are there any comments?

Ms Brown: This is exactly what I was talking about. I am glad that Tom did not know what plastic bags looked like, so we could discuss it again. *[Laughter.]*

Mr Elliott: That is a scurrilous remark to make. *[Laughter.]*

Mr Weir: Scurrilous, but not necessarily untrue. *[Laughter.]*

The Chairperson: I think that he now knows what they look like.

Ms Brown: I draw his attention specifically to the consumer confusion that I am talking about. That is where education comes in, because surely bags for life should be called "replacement bags" or something like that. I would always go for the dearer ones at 38p or 50p because you think that you are being more responsible. To me, that is possibly a bag for life, or possibly not.

The Chairperson: They are not now.

Ms Brown: I suppose that it is not, because you cannot replace it when it is damaged. However, the perception among people who think that they are being environmentally responsible is, "I buy a slightly dearer bag that lasts much longer, and I am being good to the environment". However, I do not think that people have grasped the fact that you can replace cheaper, damaged bags. A lot of education is needed, and that is where the lead-in time would be useful. I accept now that lumping another 20p onto the 5p, 6p or 10p bag makes a reusable bag look like better value. However, you cannot replace that for nothing, so it is still confusing for consumers.

The Chairperson: You may need to use it many more times to justify its carbon footprint.

Ms Brown: Yes, but you are not likely to throw away a bag that has cost you 38p or 50p and feels good, whereas you are still more likely to throw away a bag for life.

The Chairperson: Alban cited the great example of a shop that offered to replace a bag that had split. I had a bag replaced because I burnt it.

We had better move on; time is pressing. Are members broadly content with the clause?

Members indicated assent.

The Chairperson: Clause 7, "Records and enforcement", gives the Department powers through regulations to require retailers to keep certain records, which must be produced to the Department on request. We were broadly content with the Department's detailed explanation on the type and extent of information to be recorded by retailers. Are members content with clause 7?

Members indicated assent.

The Chairperson: Clause 8, "Civil sanctions", removes the requirement for the Department to lay in the Assembly a review of the operation of civil sanctions when there has been a breach of the carrier bags regulations. We were broadly content with the Department's explanation that this clause reviews existing review provisions, which will be replaced by the wider requirements of clause 9. Are members content with clause 8?

Members indicated assent.

The Chairperson: Clause 9, "Review", requires the Department to lay a report before the Assembly within three years of the commencement of the Act, assessing the effectiveness of the legislation and the need for any amendment. The Department provided detailed information on its proposed

amendment to clause 9. Are there any further issues on the amendment that you want to ask the officials about? Are members content with clause 9?

Members indicated assent.

The Chairperson: I am sure that everyone is happy with the short title of the Bill.

Members indicated assent.

The Chairperson: Members, are you content that we move on to the formal clause-by-clause consideration next week?

Members indicated assent.

The Chairperson: Thank you, Donald and Jennifer; we will see you again next week.