



Northern Ireland
Assembly

Committee for Health, Social Services and
Public Safety

OFFICIAL REPORT (Hansard)

Tobacco Retailers Bill: Clause-by-clause
Scrutiny

25 September 2013

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Maeve McLaughlin (Chairperson)
Mr Roy Beggs
Mr Mickey Brady
Ms Pam Brown
Mr Gordon Dunne
Mr Samuel Gardiner
Mr Kieran McCarthy
Mr David McIlveen

The Chairperson: I refer Members to the paper from the Committee Clerk, which provides a summary of the Committee's position to date on all the clauses. I refer Members to a letter from the Minister about a revised amendment at clause 4. We have an updated black and red copy of the Bill, which is in hard copy for Members. I will hand over to the Committee Clerk to brief the Committee.

The Committee Clerk: Thank you, Chair. On the table is the letter from the Minister with the revised red and black copy of the Bill. Members will recall that, at its meeting on 11 September, the Committee asked whether a retailer that was on the register and was subsequently convicted of an illicit tobacco offence resulting in a custodial sentence, whether suspended or not, would be automatically then removed from the register. The Department agreed to consider the issue and to report back to the Committee on 18 September. So, last week, on 18 September, the Department advised that it was content to draft an amendment on that issue. It has now provided the wording of the amendment, which will be clause 4(2)(b). The Department agreed to the Committee's suggested amendment and has provided the wording of that amendment.

The Chairperson: Are members generally content with the Department's proposal to amend clause 4 in that way?

Mr Beggs: May I have some more time to study this, please?

The Chairperson: Certainly.

Are members content?

Members indicated assent.

The Chairperson: I remind members that this is the formal clause-by-clause consideration of the Bill, so it is a vital and essential part of the process and of our duties. It is also the final opportunity for the Committee to propose amendments to the Bill. I want to make sure that we are clear on that.

As a result, I will formally put the Question after each clause. The Committee is required to vote that it is content with the clause; content with the clause subject to the Department's amendment; is not content and wishes to amend the clause; or that it is not content and wishes to oppose the clause. I say that just so that members are clear on that. I ask members to keep the black and red copy of the Bill in front of them as we go through the clauses.

Clause 1 (Register of tobacco retailers)

The Chairperson: This clause provides for the creation of a register of tobacco retailers. The Department is proposing an amendment to allow for a single body, the registration authority, to maintain the register. The Committee indicated that it was generally content with the clause and the proposed amendment.

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

Clause 2 (Application for registration)

The Chairperson: The clause sets out the arrangements for registration. The Department is proposing an amendment so that a person who has been convicted of an illicit tobacco offence resulting in a custodial sentence, suspended or not, shall not be allowed to register as a tobacco retailer for five years from the date of the conviction. The Committee was generally content with the clause and the proposed amendment.

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

Clause 3 (Duty to notify certain changes)

The Chairperson: The clause deals with the duty to notify changes to the register. The Department proposed an amendment to change the notification period from three months to 28 days. The Committee indicated that it was generally content with the clause and the proposed amendment.

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

Clause 4 (Changes to and removal from the Register)

The Chairperson: The Department has proposed an amendment that will allow for a retailer who was on the register and was subsequently convicted of an illicit tobacco offence resulting in a custodial sentence, suspended or not, to be removed from the register. The Committee indicated that it was content with the clause and the proposed amendment.

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

Clause 5 (Inspection of the Register)

The Chairperson: The Department proposes to remove clause 5, given that the amendment to clause 1 will mean that the public can access the register from the registration authority. The Committee indicated that it was generally content. Is the Committee content to oppose clause 5 as a consequence of the departmental amendment to clause 1?

Question, That the Committee is content to oppose the Question that the clause stand part, put and agreed to.

Clause 6 (Access by Department and councils to the Register)

The Chairperson: The Department proposes to remove clause 6, given that it has proposed an amendment to clause 16 to allow for information on convictions, fixed penalty notices, restricted sales and restricted premises orders to be shared between councils, the registration authority and the Department. Again, the Committee indicated that it was generally content with that.

Question, That the Committee is content to oppose the Question that the clause stand part, put and agreed to.

Clause 7 (Restricted premises orders)

The Chairperson: The Department has proposed an amendment that will mean that three offences in five years will result in a restricted premises order; the minimum period of a restricted premises order will be 28 days, and the maximum period will be three years; and illicit tobacco offences will be included as relevant tobacco offences for restricted premises and restricted sales orders. Again, the Committee indicated that it was generally content with that.

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

Clause 8 (Restricted sale orders)

The Chairperson: The Department has proposed an amendment to clause 8 that will mean that three offences in five years will result in a restricted sales order and that the minimum period of a restricted sales order will be 28 days, and the maximum will be three years. Again, the Committee indicated that it was generally content with the clause and the proposed amendment.

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

Clause 9 (Appeal against the making of an order under section 7 or 8)

The Chairperson: The Department has proposed an amendment to clause 9 to require premises subject to a restricted premises order to display a sign and to require premises subject to a restricted premises order to remove tobacco from the retail area. The Committee indicated that it was content with the clause and the amendment.

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

Clause 10 (Offences)

The Chairperson: The Department has proposed an amendment to clause 10 to create an offence for failing to display a notice if subject to a restricted premises order and to create an offence for failing to remove tobacco products from the retail area if subject to a restricted premises order. Again, the Committee indicated that it was content with the clause and the proposed amendment.

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

Clause 11 (Enforcement by councils)

The Chairperson: The Department proposes to remove clause 11 because it is no longer necessary because of the amendments to clauses 12 to 16. Again, members indicated that they were content with that.

Question, That the Committee is content to oppose the Question that the clause stand part, put and agreed to.

Clause 12 (Powers of entry)

The Chairperson: The Department has proposed an amendment to consolidate in one place in the Bill all the enforcement provisions on powers of entry, fixed penalty notices and obstruction of officers. Again, the Committee indicated that it was generally content with that.

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

Clause 13 (Fixed penalties for certain offences)

The Chairperson: The Department has proposed an amendment to the clause to allow for fixed penalty notices to be issued for sales from vending machines selling unpackaged cigarettes and for failure to display a warning notice. Again, the Committee indicated that it was generally content with the clause and the proposed amendment.

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

Clause 14 (Use of fixed penalty receipts)

The Chairperson: The Department has not proposed any amendments. The Committee indicated that it was generally content with the clause.

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

Clause 15 (Withdrawal of fixed penalty notices)

The Chairperson: The Department has not proposed any amendments. The Committee indicated that it was generally content with the clause.

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

Clause 16 (Obstruction, etc. of authorised officers)

The Chairperson: The Department has proposed an amendment to the clause to increase the fine for obstructing an officer from level 3, which is £1,000, to level 5, which is £5,000. The amendment also requires every council to make information on fixed penalty notices, convictions, restricted premises orders and restricted sales orders available to every other council, the registration authority and the Department. Again, members indicated that they were generally content with that. Is the Committee content with clause 16, subject to the proposed departmental amendment?

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

Clause 17 (Offences by bodies corporate)

The Chairperson: The Department does not propose any amendments, and, again, the Committee has indicated that it is content with the clause.

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

Clause 18 (Amendment of the Order of 1978)

The Chairperson: The Department proposes an amendment to clause 18 to increase the fine for selling to under-18s from a level 4 fine of £2,500 to a level 5 fine of £5,000. The amendment also creates an offence of proxy purchasing. Again, the Committee indicated that it was generally content. Is the Committee content with clause 18, subject to the proposed departmental amendment?

Mr Beggs: Just for clarification, we are largely removing a lot of what was originally in clause 18. Will you just clarify where the amendment, as explained, occurs? Is that just reflecting changing the fine from level 4 to level 5? It is all right — I see it now.

The Chairperson: Are you OK? Does that clarify it for you?

Mr Beggs: It is OK.

The Chairperson: OK. Thank you.

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

Clause 19 (Statutory charges)

The Chairperson: The Department does not propose any amendments to the clause. The Committee again indicated that it was generally content.

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

Clause 20 (Vehicles, vessels, etc.)

The Chairperson: The Department is not proposing any amendments, and again members indicated that they were content with the clause

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

Clause 21 (Service of notices in electronic form)

The Chairperson: The Department is not proposing any amendments. I remind members that they were generally content.

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

Clause 22 (Interpretation)

The Chairperson: The Department proposes a technical amendment to the clause. I remind members that the Committee indicated that it was generally content with the clause and the proposed amendment.

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

Clause 23 (Transitional provision)

The Chairperson: The Department again proposes a technical amendment to the clause. The Committee indicated that it was generally content with the clause and the proposed amendment.

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

Clause 24 (Regulations and orders)

The Chairperson: The Department does not propose any amendments. I remind members that the Committee was generally content with the clause.

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

Clause 25 (Commencement)

The Chairperson: The Department is not proposing any amendments, and I remind members that they were generally content with the clause.

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

Clause 26 (Short title)

The Chairperson: The Department is not proposing any amendments to the clause. I remind members that the Committee indicated that it was generally content with the clause.

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

Long Title

The Chairperson: The Department proposes an amendment to the long title to reflect the increased scope of the Bill as a result of the various proposed amendments.

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

The Chairperson: Thank you, members, for your cooperation.