

5. CONSIDERATION OF CLAUSES

5.1. Dogs (Amendment) Bill 2016 – Clauses considered

Mr Boot to move.

The Speaker: Item 5, consideration of clauses to the Dogs (Amendment) Bill. There are 16 clauses, two amendments to clause 5, and I will call on Mr Boot to move.

Mr Boot: Thank you, Mr Speaker.

Prior to commencing the movement to clauses today, I wish to advise Members in relation to two matters concerning the Bill.

The first is in relation to the concern raised at the Second Reading surrounding the £50 payment on collection by its owner of a stray dog which has been seized by a dog warden. On investigation of the issue it transpires the explanatory memorandum is incorrect in that particular respect and that the Bill itself accurately reflects the Department's policy where a charge of £50 is to be levied in respect of every stray dog picked up off the street, which is in line with Government policy on user pays.

I am advised by the drafter of the Bill that the error in the explanatory memorandum does not affect the intent of the Bill as it is not part of the Bill. I would like to extend my apologies to the House for any confusion this matter has caused and hope that this explanation is sufficient in respect of the matter.

I would also like to take the opportunity to advise that following the temporary withdrawal of the Bill after the Second Reading, the Department wrote to all local authorities to ascertain their views on the possibility of introducing a provision in the Bill for compulsory DNA testing of dogs to address dog fouling.

Members may recall that this preliminary consultation was the subject of a Keys Question asked by the Member for Ramsey, Mr Hooper, on 4th April. I can now confirm that the responses to the political consultation were mixed, with seven of the local authorities not supporting the initiative, five said yes, and four stated they agreed in principle.

In a particularly compelling response, Douglas Borough Council, a local authority which has been very proactive on this topic, suggested it would be helpful if my Department could provide evidence demonstrating that a scheme of this type has been shown to work effectively in other similar environments and jurisdictions. The Council understood that a similar initiative had recently been introduced in Gibraltar and suggested it might be prudent to wait and assess the efficiency of that scheme before bringing in similar legislation to the Isle of Man. Six other local authorities did not respond and in these circumstances it was agreed that no responses would be taken as being supportive of the DNA scheme.

With this in mind, the Department will reconsider the matter in 18 months, rather than introduce testing as part of the primary legislation. Then, having regard to the success or otherwise of similar initiatives, which are predominantly at an early stage in other jurisdictions, if it is seen that these schemes are resulting in resilience and a sustained level of reduced dog fouling and detection of dogs involved in other miscreant activity then we will endeavour to bring forward, within the underlying regulation, DNA testing.

So I would strongly urge my hon. colleagues to support the delayed Bill which will facilitate the implementation of dog chipping at the earliest possible opportunity and provide the time to ensure that any potential DNA system is right the first time around.

I would like to move on to the clauses.

Clause 1. This clause will give the Act resulting from the Bill its short title.

I beg to move.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 1 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.
Clause 2, Mr Boot.

Mr Boot: Clause 2 provides for the Act to come into operation following an Appointed Day Order and permits that order to contain such transactional, incidental, and transitory provisions considered appropriate.

I beg to move clause 2 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second.

The Speaker: The question is that clause 2 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.
Clause 3, Mr Boot.

Mr Boot: Clause 3 provides for the expiration of the enacted Bill once it has made all the proposed amendments to the 1990 Act which I refer to throughout as 'the Act'.

I beg to move clause 3 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 3 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.
Clause 4, Mr Boot.

Mr Boot: Clause 4 introduces the proposed amendments to the Act.

I beg to move clause 4 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 4 stands part of the Bill. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.
Clause 5, Mr Boot.

Mr Boot: Clause 5 ... there are amendments.

The Speaker: There are, we need to move the clause first (*Laughter*) and then we will be right on with them!

Mr Boot: Sorry, Mr Speaker, my confusion.

Clause 5 replaces the whole of Part 1 of the Act and introduces mandatory micro-chipping of all dogs in lieu of the current licensing system. It also creates appropriate offences.

This clause also introduces duties for dog keepers in respect of approved databases, whereby they must ensure the details contained on the database are accurate and that changes in respect of ownership are updated on the database within 21 days. It also permits authorised officers to obtain relevant information from the database provider to assist in ascertaining dog ownership.

Additionally, clause 5 authorises a constable, dog warden or authorised officer to seize dogs found outside the curtilage of a dwelling house and for those persons authorised to either comply with Part 3 of the Act if the dog is not micro-chipped or, where the dog *is* micro-chipped, use the information on the database to contact the owner. It imposes a requirement on the owner to collect the dog within three hours. On collection, the person authorised is able to collect a fee of £50 prior to releasing the dog. Provision is made where the dog owner cannot be contacted or, if contacted, refuses to pay the collection fee.

I beg to move clause 5 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: Now I turn to the amendments.

I have had an indication that Mr Hooper does not wish to move his amendment, so we will turn to the amendment in the name of Mr Baker.

Mr Baker: Thank you, Mr Speaker.

These minor amendments to the Bill before the House today clarify the fact that it is a stray dog that may be picked up by a dog warden, constable or authorised officer, and not just any dog which may well be under the control of its owner or keeper, and therefore not a stray. *(Laughter)*

In drafting the amendment, it was recognised that such persons i.e. dog wardens, constables or authorised officers do not always manage to successfully seize stray dogs, despite having done their best. The amendments here impose a duty on wardens and others to do their best to seize dogs in the relevant circumstances, whilst recognising that in some cases a stray dog may well escape from them, due to no lack of effort on their part.

I understand that the amendments made by the drafter will accomplish that and I would like to thank the Hon. Member for Douglas North for recognising the limitations of the previous drafting and pointing out that the dogs needed to be strays before they could be apprehended.

Mr Speaker, I beg to move the amendments standing in my name:

Amendments to clause 5

(1) On page 10, in line 13 insert «use best endeavours to» immediately before “seize”.

(2) On page 10, in line 13 insert «stray» immediately before “dog”.

(3) On page 10, in line 15 insert «where he succeeds in seizing the dog, » immediately before “comply”.

Mr Hooper: Mr Speaker, in light of the fact Mr Baker managed to move that with a straight face, I am happy to second. *(Laughter)*

The Speaker: Does anyone wish to speak to either the clause or the amendment?
Mrs Caine.

Mrs Caine: Thank you, Mr Speaker.

Just regarding paragraph 2(b)(3) on page 9, the clause appears to allow for unspecified information to be required and I feel that might be unacceptable as no limit is placed on the amount of information to be held on the database.

Can the Minister provide reassurance as to the type of information that will be retained, because the wording of this clause seems to leave it wide open?

Thank you.

The Speaker: I turn first to Mr Baker to reply to his amendment, if there is anything you wish to add.

Mr Baker: I would just like to thank the Hon. Member for Ramsey for his positive comments about my straight face, and I would actually read the original drafting from the Department which described the dog as, 'Not just any dog which may well be attached to a lead which is subsequently attached to an individual', (*Laughter*) and he may understand why I preferred my revised drafting.

And I would like to respond to the Hon. Member for Garff's impassioned plea for civil liberties for dogs but I think that the database capture is adequate in this circumstance.

The Speaker: Mr Boot to reply to the clause and the amendments.

Mr Boot: With regard to the amendment I obviously support that. It is a sensible amendment.

With regard to the Hon. Member, Mrs Caine's question with regard to the database, there is a prescription in (b) and I think that the information that will be required is such that they can operate the database and have the information with regard to the dog owner, keeper etc. I do not think it goes any further than that.

The Speaker: Putting first the amendment in the name of Mr Baker. Those in favour, please say aye; against, no. The ayes have it. The ayes have it.

Putting then the clause as amended. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

The Speaker: Clause 6, Mr Boot.

Mr Boot: Clause 6 amends section 7 of the Act by replacing a reference to the Cruelty to Animals Act 1955 with reference to the Cruelty to Animals Act 1997.

I beg to move clause 6 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 6 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 7, Mr Boot.

Mr Boot: Clause 7 amends section 13 of the Act by inserting a new subsection (1A) which provides that dogs which have been micro-chipped or returned to their owners are not to be subject of a notice under that section.

The clause also deletes subsection (4) of section 13 and replaces it with a new subsection which enables a constable to serve a notice on a person who comes to claim a stray dog. This notice will require that the person is to ensure that the dog is micro-chipped within seven days and creates an offence for failure to comply with the notice.

Finally, this clause inserts a new subsection (5) which stipulates any person who seizes a dog and fails to comply with certain requirements commits an offence and they shall be liable to a fine not exceeding £200.

I beg to move clause 7 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 7 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 8, Mr Boot.

Mr Boot: Clause 8 substitutes section 14(4) of the Act. The proposed subsection states that, where a stray dog is put up for sale or gifted by the Chief Constable or the Department as a result of it not having been claimed, the buyer or donee has to comply with specific requirements. Among them is the requirement to ensure that the dog, where the dog is micro-chipped, details are updated on the database. It is necessary, however, that where a dog is not micro-chipped, the buyer or donee must ensure that the dog is micro-chipped within 24 hours and is required to provide evidence of this to the Chief Constable or Department.

I beg to move clause 8 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 8 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 9, Mr Boot.

Mr Boot: Clause 9 substitutes paragraph (a)(ii) of section 15 of the Act, which currently makes reference to a dog licence being in force in order to allow release of a dog. The new paragraph (a)(ii) permits the release of a dog where it is micro-chipped or a notice has been issued requiring the dog to be micro-chipped.

I beg to move clause 9 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 9 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 10, Mr Boot.

Mr Boot: Clause 10 updates a reference to the Cruelty to Animals Act 1955 by replacing it with a reference to the Cruelty to Animals Act 1997.

I beg to move clause 10 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 10 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 11.

Mr Boot: Clause 11 amends section 25 of the Act by deleting reference to section 4(2). Section 4(2) will no longer exist as it is to be replaced by the newly inserted Part 1.

I beg to move clause 11 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 11 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 12.

Mr Boot: Clause 12 removes reference to sections 4(2), 5(1), in section 27A as a consequence of other revisions made by the Bill, particularly in relation to the replacement of Part 1.

This clause also makes consequential amendments in relation to criminal proceedings as a result of the removal of the licensing system.

I beg to move clause 12 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 12 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 13.

Mr Boot: Clause 13 amends section 28 of the Act by conferring on the Department power to make regulations prescribing anything which is necessary or convenient for the administration of the Act. Any such regulations are to be laid before Tynwald.

I beg to move clause 13 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 13 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 14.

Mr Boot: Clause 14 deletes subsections (5) and (6) of section 29 of the Act as they concern the licensing system which the Bill is proposing to remove.

I beg to move clause 14 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 14 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Clause 15.

Mr Boot: Clause 15 amends section 30 of the Act by inserting new definitions of the terms 'microchip', 'qualified person' and 'approved database'. It also removes certain definitions which are no longer required as a consequence of the licensing system being repealed.

I beg to move clause 15 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 15 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Finally, clause 16.

Mr Boot: Clause 16 repeals Schedule 1 which is no longer required as it concerns the dog licence regime which is to cease.

I beg to move clause 16 stands part of the Bill.

The Speaker: Mr Perkins.

Mr Perkins: I beg to second and reserve my remarks.

The Speaker: The question is that clause 16 stands part of the Bill. Those in favour, please say aye; those against, no. The ayes have it. The ayes have it.

Hon. Members, that concludes the business before the House this morning and the House now stands adjourned until 10.30 a.m. Tuesday next in Tynwald Court.

Thank you.

The House adjourned at 12.04 p.m.