



Northern Ireland
Assembly

Committee for Health, Social Services and
Public Safety

OFFICIAL REPORT (Hansard)

Human Transplantation Bill:
Formal Clause-by-clause Consideration

27 January 2016

NORTHERN IRELAND ASSEMBLY

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Members present for all or part of the proceedings:

Ms Maeve McLaughlin (Chairperson)
Mr Alex Easton (Deputy Chairperson)
Mr Thomas Buchanan
Mrs Pam Cameron
Mrs Jo-Anne Dobson
Mr Kieran McCarthy
Ms Rosaleen McCorley
Mr Michael McGimpsey
Mr Daithí McKay
Mr Fearghal McKinney

The Chairperson (Ms Maeve McLaughlin): Do any members want to declare an interest?

Mrs Dobson: I declare an interest as the sponsor of the Bill. I will say a few words, if I may, because, as you know, promoting organ donation has been a considerable part of my life.

Members are aware of my views on the proposals. I have had the Department's amendments since December, and I am disappointed that, today, for the third week, the Committee has pointed out their continued absence, meaning that they cannot be considered. I feel strongly that they would have assisted us in going forward with the Bill.

Judging by yesterday's topical questions in the Chamber, the Minister is not giving the matter his full consideration, despite what we were told. Otherwise, we would have received the promised assistance as a Committee, as would I as sponsor. I asked for help during the Second Stage debate and feel that we are poorer for its absence.

Looking at the options before us today, I ask members to consider whether they wish to amend the Bill as proposed through option B or gut the Bill as proposed through option A. I support option B because of the double-lock that it provides for family consent: the family will have the right of objection, and, if no qualifying family members are present, the consent does not apply.

The Chairperson (Ms Maeve McLaughlin): Thank you for those comments.

Members have the Committee Clerk's memo and the proposed Committee amendments. Members should also have the Bill to hand as we proceed. This is the formal clause-by-clause consideration. I will proceed through the clauses and put the Questions formally. If there are amendments, I will put the Question on the amendments first. If there is no consensus on a Question, I will ask members to vote through a show of hands, and the Clerk will confirm the result of each vote.

Clause 1 (Duty to promote transplantation)

The Chairperson (Ms Maeve McLaughlin): Clause 1 sets out the Department's duty to promote and provide information about transplantation, including a specific duty to inform the public about deemed consent. The Committee has proposed an amendment to remove the reference to deeming: is the Committee content with the proposed Committee amendment?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

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

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 2 (Authorisation of transplantation activities)

The Chairperson (Ms Maeve McLaughlin): Clause 2 deals with the lawfulness of transplantation activities. The Committee has proposed two amendments: to remove subsections (1) and (3) but to keep subsection (2) because it defines transplantation activities that are necessary for the purposes of clause 14. Is the Committee content with the proposed Committee amendments?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 3 (Express consent: adults)

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members want to formally register opposition to clause 3 with the Bill Office? That simply means that opposition will be recorded on the Marshalled List and attract speaking rights in the same way as other amendments. That will apply to all clauses to which opposition is notified. Are members in agreement that that be recorded on the Marshalled List?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 4 (Deemed consent: deceased adults)

The Chairperson (Ms Maeve McLaughlin): The Committee has proposed three amendments to require that deemed consent can be effective only if contact has been made with a person in a qualifying relationship and to remove references to "affirmation" and replace them with "objection". Is the Committee content with the proposed Committee amendments?

Question put.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members want to formally register opposition to clause 4 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 5 (Express consent: excepted adults)

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members want to formally register opposition to clause 5 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 6 (Express consent: children)

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 6 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 7 (Express consent: transplantation activities involving excluded material)

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 7 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 8 (Deemed consent: activities involving material from living adults who lack capacity to consent)

The Chairperson (Ms Maeve McLaughlin): Clause 8 governs transplantations from the body of a living adult who lacks the capacity to consent. There are no proposed amendments.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 8 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 9 (Appointed representatives)

The Chairperson (Ms Maeve McLaughlin): Clause 9 deals with appointed persons. There are no proposed amendments.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 9 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 10 (Qualifying relationships)

The Chairperson (Ms Maeve McLaughlin): Clause 10 sets out the meaning of "qualifying relationship". There are no proposed amendments.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 10 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 11 (Prohibition of transplantation activities without consent)

The Chairperson (Ms Maeve McLaughlin): Clause 11 provides that it is an offence to carry out transplantation activity if there is no appropriate consent.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 11 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 12 (Offences by bodies corporate)

The Chairperson (Ms Maeve McLaughlin): Clause 12 provides that organisations and groups can be guilty of offences under the Bill.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 12 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 13 (Prosecutions)

The Chairperson (Ms Maeve McLaughlin): The clause provides that a person can be prosecuted for an offence under the Bill only if the Director of Public Prosecutions consents to the prosecution.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 13 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 14 (Annual report on transplantation)

The Chairperson (Ms Maeve McLaughlin): The clause sets up a mechanism for post-legislative scrutiny. There is one proposed Committee amendment for the clause to refer to the Human Tissue Act and provide for a broader review within five years and periodically after that. Is the Committee content with the proposed Committee amendment?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

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

The Committee divided: Ayes 5; Noes 4.

AYES

Mr Buchanan, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 15 (Preservation for transplantation)

The Chairperson (Ms Maeve McLaughlin): Clause 15 makes it lawful to keep the body of a deceased person whilst the issues of consent are being resolved.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 15 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 16 (Coroners)

The Chairperson (Ms Maeve McLaughlin): Clause 16 provides that coroners carrying out their jobs are exempt from the rules set out in the Bill.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 16 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Question, That the Committee is content with clause 17, put and agreed to.

Clause 18 (Interpretation)

The Chairperson (Ms Maeve McLaughlin): Clause 18 defines various terms referred to in the Bill. There are four proposed Committee amendments to remove some definitions. They are at page 4 of your tabled papers. The amendments will retain the definition of "the Department" and "relevant material" and add subsections (5) and (6). Is the Committee content with the proposed Committee amendments?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Question put, That the Committee is content with the clause, subject to the proposed amendments.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 19 (Orders and regulations)

The Chairperson (Ms Maeve McLaughlin): Clause 19 sets out the procedure for making subordinate legislation under the Bill.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 19 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 20 (Consequential amendments to the Human Tissue Act 2004)

The Chairperson (Ms Maeve McLaughlin): Clause 20 makes amendments to the Human Tissue Act 2004.

Question put, That the Committee is content with the clause.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negatived.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to clause 20 with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Clause 21 (Commencement)

The Chairperson (Ms Maeve McLaughlin): Clause 21 provides that the duty to promote transplantation, the interpretation section and the short title come into operation three months after the Bill becomes an Act and that the remaining parts come into operation on 31 May 2018.

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

Question, That the Committee is content with clause 22, put and agreed to.

Schedule (Consequential amendments to the Human Tissue Act 2004)

The Chairperson (Ms Maeve McLaughlin): The schedule makes amendments to the Human Tissue Act 2004.

Question put, That the Committee is content with the schedule.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to the schedule with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

Long Title

Question put, That the Committee is content with the long title.

The Committee divided: Ayes 4; Noes 6.

AYES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

NOES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

Question accordingly negated.

The Chairperson (Ms Maeve McLaughlin): Do members wish to formally register opposition to the long title with the Bill Office?

Question put.

The Committee divided: Ayes 6; Noes 4.

AYES

Mr Buchanan, Mrs Cameron, Mr Easton, Ms McCorley, Mr McKay, Ms Maeve McLaughlin.

NOES

Mrs Dobson, Mr McCarthy, Mr McGimpsey, Mr McKinney.

Question accordingly agreed to.

The Chairperson (Ms Maeve McLaughlin): I thank members for their cooperation. I advise you that the Committee will now consider and agree its report on the Committee Stage of the Bill at next week's meeting.