ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE

Wednesday 29 November 2006

Session 2

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ENVIRONMENT AND RURAL DEVELOPMENT COMMITTEE
34th Meeting 2006, Session 2

CONVENER

*Sarah Boyack (Edinburgh Central) (Lab)

DEPUTY CONVENER

*Eleanor Scott (Highlands and Islands) (Green)

COMMITTEE MEMBERS

*Mr Ted Brocklebank (Mid Scotland and Fife) (Con)
*Rob Gibson (Highlands and Islands) (SNP)
*Richard Lochhead (Moray) (SNP)
*Maureen Macmillan (Highland and Islands) (Lab)
*Mr Alasdair Morrison (Western Isles) (Lab)
*Nora Radcliffe (Gordon) (LD)
*Elaine Smith (Coatbridge and Chryston) (Lab)

COMMITTEE SUBSTITUTES

Alex Fergusson (Galloway and Upper Nithsdale) (Con)
Trish Godman (West Renfrewshire) (Lab)
Jim Mather (Highlands and Islands) (SNP)
Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)
Mr Mark Ruskell (Mid Scotland and Fife) (Green)

*attended

THE FOLLOWING ALSO ATTENDED:

Ross Finnie (Minister for Environment and Rural Development)
John Farquhar Munro (Ross, Skye and Inverness West) (LD)

CLERK TO THE COMMITTEE

Mark Brough

SENIOR ASSISTANT CLERK

Katherine Wright

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 5

Scottish Parliament

Environment and Rural Development Committee

Wednesday 29 November 2006

[THE CONVENER *opened the meeting in private at 10:04*]

10:53

Meeting suspended until 11:33 and continued in public thereafter.

Subordinate Legislation

Transmissible Spongiform Encephalopathies (Scotland) Regulations 2006 (SSI 2006/530)

The Convener (Sarah Boyack): I suggest that we move item 3, which is consideration of subordinate legislation, to the top of the agenda. I hope that that will give Mr Finnie's officials the opportunity to find their way to the room and get their breath back.

When we considered the regulations, which are subject to the negative procedure, on 15 November, we asked the minister for further information on their effect on small rural abattoirs. We have received the minister's response, which has been circulated with the committee papers.

Do members have any comments?

Nora Radcliffe (Gordon) (LD): I welcome the minister's letter, which provides useful clarification.

Eleanor Scott (Highlands and Islands) (Green): I agree. The trouble with negative instruments is that we do not get a chance to debate them. Very often their purpose is clear, but on this occasion the letter of clarification was helpful.

The Convener: I draw to the attention of those outwith the Parliament the last paragraph in the letter, which refers to the processing and marketing grant scheme. Over the past five years or so, £6.2 million of that money has been invested in abattoirs to help towards

"the cost of new buildings, refurbishment of existing buildings and purchase of new equipment".

The letter points out that:

"The new scheme, under the Scottish Rural Development Programme, will open for applications in late 2007."

As a result, it seems like quite a good time for people to think about the scheme and to do some advance planning.

I am glad that we halted the process and sought clarification and reassurance from the minister. After all, we have discussed small rural abattoirs on more than one occasion.

Rob Gibson (Highlands and Islands) (SNP): Am I right in saying that small rural abattoirs are not necessarily the main beneficiaries of that money?

The Convener: No, but they can bid for it. Indeed, the £6.2 million that I mentioned was specifically for abattoirs. The scheme certainly gives rural communities a chance to consider the opportunities that bidding for such funds might provide.

Waste Management Licensing Amendment (Scotland) Regulations 2006 (SSI 2006/541)

The Convener: In its 42nd report of 2006, the Subordinate Legislation Committee wondered whether it was time to consolidate the regulations. Members have been circulated with extracts from the report and the Executive's lengthy response to the question. Are there any further comments?

Members: No.

The Convener: In that case, I take it that members are happy with both instruments and do not wish to make any recommendation to the Parliament.

Members *indicated agreement*.

Crofting Reform etc Bill: Stage 2

11:36

The Convener: Agenda item 2 is our stage 2 consideration of the Crofting Reform etc Bill. I welcome to the meeting the Minister for Environment and Rural Development, Ross Finnie, and all his officials, who have now joined us. Members should have with them a copy of the bill; the third marshalled list of amendments, which was published on Monday; and the groupings of amendments. Our target is to reach the end of the bill, but we will see how we get on.

I remind everyone in the room, including members of the public, to switch their BlackBerrys and mobiles to silent mode.

Section 35—Crofting community right to buy

The Convener: Group 1 is on the crofting community right to buy. Amendment 43, in the name of Alasdair Morrison, is grouped with amendments 44, 45, 164, 46, 165, 47 to 57 and 69 to 116.

Mr Alasdair Morrison (Western Isles) (Lab): I will move amendment 43 and then take five minutes to speak to each of the other amendments in the group.

Seriously, convener, I am not going to do that.

The Convener: Just get on with it.

Mr Morrison: Ross Finnie and his deputy are aware of the issues that are raised in my 63 amendments on the crofting community right to buy, which have been grouped with Ted Brocklebank's amendments 164 and 165.

There you are, Ted—I did not see you.

Mr Ted Brocklebank (Mid Scotland and Fife) (Con): I am so small that you cannot see me.

Mr Morrison: It is the invisible Ted Brocklebank.

I simply move amendment 43.

Mr Brocklebank: Amendment 164 is a probing amendment that refers to a situation in which a lease might cover eligible croft and non-croft land. As it is impossible to assign part of a lease, I ask the minister to clarify how, in such circumstances, the crofting community body will be able to acquire only part of the interest in a lease. I would be grateful if the minister also gave us an assurance that the Executive does not intend for an application to affect non-croft land that might happen to be covered by a lease that also covers eligible croft land.

On amendment 165, section 35 seems to have been widely drafted to allow crofting community bodies to acquire any leasehold interests that are created over croft land. The policy intention might have been to catch leases that have been interposed between the owner and the crofter and which frustrate the crofting community body's ability to acquire the full benefit of the land.

However, I am concerned that section 35, as it is drafted, would have unintended consequences because the crofting community body could apply to acquire any leasehold interest, whatever the reason for its existence. Many lease arrangements have been created for perfectly valid reasons and were often agreed before the Land Reform (Scotland) Act 2003 came into force. Members will recall that during our stage 1 proceedings we heard evidence of examples. It is possible, particularly when controversial developments such as wind farms split crofter opinion, that section 35 could be abused to stifle development. Crofters who wish to frustrate development could apply to acquire the land and the leasehold interest and thus prevent a development that may have been to the benefit of both the owner and other crofters. It seems to me that amendment 165 would ensure that only leases created as devices to frustrate the purpose of land reform would be affected. I would be grateful for the minister's comments.

Nora Radcliffe: Ted Brocklebank mentioned the creation of uncertainty for potential renewable energy developers. Confidence is crucial to getting funding. The issue is whether, if there is serious uncertainty about security of tenure or about whether a lease that is entered into with a crofter could be bought out as part of a crofting community body buyout, that might inhibit potential development. I would appreciate the minister's explanation of how the Executive has taken the issue into account.

The Minister for Environment and Rural Development (Ross Finnie): I apologise for the absence of my deputy, Rhona Brankin, who is absent this morning because she is attending her daughter's graduation ceremony. I hope that you are content to put up with the minister, as they say in these places.

I will deal first with Nora Radcliffe's point about uncertainty. We are aware of the concerns about potential developers in relation to section 35. However, if I may say so, I think that those concerns are based on a misconception. Once the provisions in section 35 are in place, there will be no point in creating interposed leases to obstruct crofting community bodies. In this context, the section 35 provisions can be used only by a crofting community body that is using the provisions of the Land Reform (Scotland) Act 2003 to buy eligible croft land. Developers will therefore be able to avoid any risks associated with the provision by using their influence to persuade

landlords to negotiate a deal with a crofting community rather than force the community to use the provisions of the act. Therefore, the existence of the provisions in section 35 will not oblige crofting communities to seek to acquire any interposed leases; it will simply enable them to do so if they feel that it would be in the interest of sustainable use and the development of the crofting estate.

Obviously, the Executive is wholly supportive of the provisions in Alasdair Morrison's amendments. We believe that they will deal with the situation in relation to interposed leases that was raised during the consultation on the draft bill.

With regard to the specific points that were raised by Ted Brocklebank, we do not believe that, taken collectively, his amendments would have the effect that he suggests. He referred to unintended consequences. Our reading of amendment 164 is that it would prevent crofting community bodies from acquiring interposed leases that affected more than just eligible croft land. That would make it possible for landowners to ensure that crofting community bodies could not acquire interposed leases by ensuring that they affected croft and non-croft land.

Amendment 165 would require a crofting community body that was seeking to acquire an interposed lease to prove that the lease had been devised deliberately to obstruct acquisition by the crofting community body. It would be well-nigh impossible to prove the intent behind an interposed lease and trying to do so would require extensive and difficult court action.

Amendments 164 and 165 would undermine the intentions that underlie section 35 and the associated amendments that deal with interposed leases, and would restrict the scope of crofting communities to acquire and develop eligible croft land, so I invite the committee to reject them.

Ted Brocklebank made a point about having absolute clarity in relation to the extent to which a croft not covered by the lease could be brought into the ambit of Alasdair Morrison's amendments. We do not believe that that is the case, but we are concerned about how the proposed provisions could be interpreted. We will examine carefully the European convention on human rights implications and although we would not wish to disturb the substance of Alasdair Morrison's amendments, if our solicitors so advised us, we would lodge a technical amendment at stage 3 to deal with any outstanding doubt of the nature of the one that Ted Brocklebank raised in the first part of his remarks. I reject the thrust of the second part of Ted Brocklebank's remarks.

11:45

Mr Morrison: I am grateful to the minister for outlining an area of delicacy that exists, which I trust will be dealt with competently at stage 3.

Amendment 43 agreed to.

Amendments 44 and 45 moved—[Mr Alasdair Morrison]—and agreed to.

Mr Brocklebank: I listened to what the minister said about amendments 164 and 165 and I would like to take some more time to consider his responses, particularly as they relate to ECHR matters. In the circumstances, I do not propose to move the amendments.

Amendment 164 not moved.

Amendment 46 moved—[Mr Alasdair Morrison]—and agreed to.

Amendment 165 not moved.

Amendments 47 to 57 moved—[Mr Alasdair Morrison]—and agreed to.

Section 35, as amended, agreed to.

Before section 36

The Convener: Group 2 is on consideration payable in respect of acquisition of croft land. Amendment 166, in the name of John Farquhar Munro, is the only amendment in the group.

John Farquhar Munro (Ross, Skye and Inverness West) (LD): I lodged amendment 166 for several reasons. Under the current system, the individual who purchases a croft becomes the landlord, but there is a clause in the purchase agreement that if the croft is developed within a set period for purposes other than agriculture, compensation is payable to the original landlord. I believe that that is wrong. The purchaser of the croft, in agreement with the former landlord, becomes the owner of that territory, has title to it and, consequently, should not have an on-going responsibility to compensate the previous owner.

Amendment 166 is designed to repeal certain subsections of the Crofters (Scotland) Act 1993, which provides for compensation to be paid in that way. Under the current system, if a croft is developed within five years for purposes other than agriculture, compensation is payable to the original owner. Some people suggest that that should be extended to 10 or 25 years, but the arrangement is not working because there are methods by which people can overcome and frustrate the payment of the compensation. Given that the provision is not working, it should not be included in the act.

I move amendment 166.

Mr Brocklebank: I rarely find myself at odds with John Farquhar Munro, but, as I understand it, amendment 166 would remove the clawback provisions in the 1993 act, which apply if a crofter and nominee sells on his croft land for development within five years of acquiring it. Surely, rather than removing the clawback provision, we should strengthen it. If anything, the clawback period should be increased. We heard from a number of witnesses that that might be one way of dampening the speculation on croft sites that has developed, to the detriment of crofting. Amendment 166 would simply open up croft land to further speculation. The removal of the landlord's interest in the uplift in value of the land would also have major ECHR implications, given the right to buy croft land. I would be grateful for the minister's comments on that.

Nora Radcliffe: I want to hook on another concern. The committee of inquiry will consider how to regulate the market in crofts. Will the issue to which amendment 166 relates be included in that consideration? Could the right to buy be restricted to the house and garden, rather than the whole croft, in the interests of dampening the market? That would allow people to buy land against which they could borrow funds without fuelling the market.

Ross Finnie: The provision in question is in sections 13 and 14 of the 1993 act. The crofter is allowed to purchase the croft for 15 times his annual rent. However, if, within five years of acquiring the croft, the crofter disposes of it to someone other than a member of his family other than by lease for crofting or agricultural purposes, the crofter must share any profits with the landlord according to criteria that are prescribed in section 14. In essence, that involves sharing the difference between what the crofter paid for the croft and what he sold it for.

I realise that none of us was involved in the framing of the 1993 act. However, I am clear that the arrangements were designed not only to allow a crofter to benefit from acquiring the croft for his own use or that of his family but, crucially, to discourage the right to buy from being exercised simply for speculation or profit. That is the essential thrust of the proposal and, to that extent, what Ted Brocklebank said is right.

However, I part company with Ted Brocklebank on his view that the five-year period should be extended. I feel that, in that respect, those who framed the 1993 act struck an entirely reasonable balance. If we were to extend the period to 10 years—I stress that the Scottish Executive is not contemplating such a move—we would find ourselves in entirely different territory. I am convinced that five years allows any unnecessary speculation to be avoided. Although I understand where John Farquhar Munro is coming from with amendment 166, I tend to think that removing the five-year period altogether is totally at odds with his well-established views on the need to dampen down speculation.

I ask John Farquhar Munro to reflect on the fact that the Executive has absolutely no intention of amending the current period to more than five years—and, more important, on my humble opinion that removing the provisions in sections 13 and 14 of the 1993 act would be more likely to lead to speculation—and invite him not to press amendment 166.

John Farquhar Munro: I take the minister's point and accept that many feel strongly that, if a property or croft is purchased and then disposed of within a certain period of years, compensation should be paid to the original owner.

However, I have suggested that the provision be repealed altogether, simply because it is not working. Some have managed to overcome the requirement by manipulating the current law to allow a set-aside or third-party company to bring on a development. That said, I see from the minister's response that it will be futile to push for amendment 166 to be agreed to, so, with the committee's approval, I seek to withdraw it.

Amendment 166, by agreement, withdrawn.

Section 36—Regulations concerning loans

The Convener: Group 3 is on the recovery of loans. Amendment 142, in the name of the minister, is the only amendment in the group.

Ross Finnie: Section 36 proposes to insert a new section 46A into the 1993 act to empower the Scottish ministers to make regulations on the provision of loans to crofters and certain other parties. Proposed new section 46A(2)(f) provides that the Scottish ministers may, in those regulations, make provision for

"arrangements for recovery of any part of a loan when the borrower dies".

In light of the Subordinate Legislation Committee's view that that wording might preclude provision for recovering the whole loan, amendment 142 seeks to clarify that the regulations may cover arrangements for recovery of the whole or part of a loan when the borrower dies.

I move amendment 142.

Amendment 142 agreed to.

Section 36, as amended, agreed to.

Section 37—Appeal to Land Court and jurisdiction of that court

Amendments 58 to 65 moved—[Ross Finnie]—

and agreed to.

Section 37, as amended, agreed to.

Section 38—Further amendments in relation to the Land Court

The Convener: Group 4 contains general amendments on the Scottish Land Court. Amendment 66, in the name of the minister, is grouped with amendments 67 and 68.

12:00

Ross Finnie: This group of amendments follows on from the group that dealt with the operation of the Scottish Land Court, which were debated last week. The drafting of the Scottish Land Court Act 1993 primarily provides for the deputy chairman to act in place of the chairman in certain circumstances but, in so doing, leaves unclear whether both may sit in the court at the same time. Amendment 66 seeks to amend paragraph 10(1) of schedule 1 to the Scottish Land Court Act 1993 to provide a mechanism for the chairman and deputy chairman to sit in the court at the same time.

Amendment 67 seeks to make minor changes to paragraph 12 of schedule 1 to the Scottish Land Court Act 1993. Paragraph (a) of the new subsection that amendment 67 seeks to insert in section 38 of the bill will enable forms of application and procedure, rules of the Scottish Land Court, scales of fees and other fee matters to be prescribed by order made by statutory instrument. The current rules of the Scottish Land Court were made as a statutory instrument in 1992 under prior legislative powers that were repealed by the Scottish Land Court Act 1993. There is no mechanism in that act to enable new rules to be published as a statutory instrument. That is why we have lodged amendment 67.

Paragraph (b) of the new subsection that amendment 67 seeks to insert in section 38 contains a minor change that will make it clear that it is the court rather than Scottish ministers that has the power to prescribe forms of application and procedure, albeit with ministerial approval.

Amendment 68 is a technical amendment that relates to the jurisdiction of the Scottish Land Court. We have taken the opportunity to update the drafting of section 1(6) of the Scottish Land Court Act 1993 to cater for acts of the Scottish Parliament. I ask the committee to support amendments 66, 67 and 68.

I move amendment 66.

The Convener: I have a few strategic comments to make. I am entirely happy with the minister's amendments, which provide clarification on matters about which people would otherwise ask questions. My interest has been sparked by an equal opportunities issue. I have read through the bill and the amendments to it. My raising of the issue has been provoked by the use of the term "Chairman" in amendment 66.

Given that we are modernising crofting legislation, it seems that we have missed an opportunity to make the bill gender neutral. The minister spoke about the crofter and his croft when he discussed amendment 166. The bill and all the amendments to it refer to crofters and landlords as if they are all male, whereas we know from the evidence that we have taken that there are many female crofters and landlords.

I realise that we are modernising old legislation, which we would expect to have followed the old-style convention of referring to everyone as "he" and "him". However, the Scottish Executive has taken a general view that legislation should be gender neutral and it is a pity that that aspiration has not come through in the bill, especially as section 40, "'Members of a family'", reflects modern life and modern relationships. As convener, I want to express regret that the opportunity has not been taken to make the bill gender neutral.

As has been mentioned, amending previous legislation is an incredibly complex process and I know that the 1993 act is historical and that it uses old-fashioned terms. However, I want to ensure that it is not assumed that people who are likely to hold positions in the Scottish Land Court are male. Will the minister clarify that the chairman does not have to be a man? Will he comment on my regret that we have not adopted a modern approach throughout the bill to gender issues?

Ross Finnie: I would certainly share your concerns if what you described was the case. Our difficulty is that amendment 66, which will sit in what will be the Crofting Reform etc Act 2006 if the bill is approved, refers to the Scottish Land Court Act 1993. The difficulty for drafters is that we would have to amend every reference in the 1993 act. From a drafting perspective, that is not always the simplest thing to do.

I would be appalled if anyone did not understand that, although old-fashioned terms are used in relation to the 1993 act, the thrust of the new provisions that the bill will introduce conveys a more gender-neutral position. I am happy to confirm that, although a grotesquely insufficient number of senators or whatever it is that people must be to be members of the Land Court are female, a person does not have to be male to be the chairman of the Land Court.

The Convener: I take your point that enabling definitions would have had to be changed, which would probably have been extremely tedious for

drafters, but I think that such matters should be standard in the future. The committee would have been keen for such language to be adopted. The bill could have provided the way to start moving us into the 21st century. We should adopt such language as standard rather than see it as a major hassle.

Ross Finnie: I accept that. The situation would be even worse if we introduced consolidating legislation that did not address completely such issues. A future Parliament will have to consider that for crofting legislation, given that some relevant acts go way back to 1880.

The Convener: I take that offer in the spirit in which it was intended. I fully expect future consolidation of crofting legislation to meet those requirements on gender neutrality. I will not extend the point for ever.

Amendment 66 agreed to.

Amendment 67 moved—[Ross Finnie]—and agreed to.

Section 38, as amended, agreed to.

Sections 39 to 43 agreed to.

Schedule 2

MINOR AND CONSEQUENTIAL AMENDMENTS

The Convener: Group 5 is on expenses in relation to the determination of the boundary of croft land that is to be acquired. Amendment 152, in the name of John Farquhar Munro, is grouped with amendment 153.

John Farquhar Munro: The aim of amendment 152 is to clarify the position on the costs and expenses that are associated with determining croft boundaries. The landlord can frustrate the acquisition of or determination of a boundary on a croft simply by not agreeing to the boundary or ensuring that, if the boundary is to be determined to everybody's satisfaction, a legal challenge must be made, which can be very expensive. The law states that the cost of that determination shall fall to the crofter. That is unfair.

I suggest that, when the crofter and the landlord fail to agree on an issue of conveyance or determination of a boundary, an application should be made to the Land Court, which should arbitrate and decide on the exact boundaries and the determination of expenses. In that way, the crofter would get a fair hearing. The Land Court would decide on the allocation of expenses between the landlord and the crofter. That would be a much fairer and more equitable approach than the current one, under which the crofter has to meet all the expenses.

I move amendment 152.

Rob Gibson: Earlier, we removed the cost of getting a map of a particular part of a crofting estate, and we hope that the minister will lead us towards a map-based means of distinguishing boundaries. I hope that the Executive takes seriously John Farquhar Munro's comments on how costs are determined. As boundaries are one of the most serious issues in crofting communities, I hope that the minister will reassure us that attempts to determine boundaries will not continue to cost crofters a lot of money.

I have a lot of sympathy with John Farquhar Munro's amendment 152. I hope that we will not be told that this is yet another matter that will have to be dealt with in the inquiry. The minister should find a way to deal with it in the bill. People who have had to go to the Land Court to determine boundaries have lost out badly.

Ross Finnie: If there are situations in which crofters incur unnecessary expense, that is a matter of some concern, so I share the concern that led John Farquhar Munro to lodge his amendment. I have to say to him, however, that there is no statutory provision that states that expenses fall solely on the crofter. When cases go to the Land Court, the normal court rules apply and expenses are determined by the outcome of the case. If the court finds in the pursuer's favour, it is likely that the other party will have to bear the expense or that the expense will be shared.

The critical question is whether one can still have a protracted dispute in the Land Court over croft boundaries, although Rob Gibson is right to suggest that such disputes have arisen historically. The existing provisions that cover the matter are in section 53—and particularly section 53(1)(c)—of the Crofters (Scotland) Act 1993. The difficulty with those provisions is that, although one can get access to the Land Court with a view to determining boundaries, section 53 is silent on what happens if the information supplied by the landlord and the information supplied by the tenant are irreconcilable. I suspect that members' concern is that, in that situation, the parties get into a protracted dispute and considerable expense is incurred.

12:15

However, I draw members' attention to section 22, which seeks to remedy the difficulty of a protracted discussion. Section 22 inserts into the 1993 act new section 53A, which states:

"Where an application is made to the Land Court to determine a question under section 53(1)(c) of this Act"—

that is the section to which I first referred—

"and the evidence available to the Court is insufficient to enable any boundary to be clearly determined, the Court shall declare the boundary to be that which in all the

circumstances it considers appropriate."

In other words, the bill makes provision to allow the Land Court—instead of saying, "Gosh! This is a bit difficult; let us hear more evidence"—to cut through that and make a determination.

I suggest to John Farquhar Munro that, for the generality of cases that might come before the Land Court for a boundary to be determined, we have built into the bill a provision that will allow that to happen. In my humble opinion, that will reduce the likelihood of protracted discussions on a doubtful evidential base. That is my first point, and I invite the committee to consider the implications of that.

Secondly, I am concerned that, in fettering the discretion of the Land Court to regulate the apportionment of expenses and other matters, we would be introducing a principle and precedence might be created in relation to how those powers were exercised. Although it does not appear clear what section 22, which amends section 53(1)(c) of the 1993 act, is trying to do, it is a powerful provision in allowing the Land Court to intervene—but not to take an unnecessary length of time in so doing—and in giving it the power to make a determination.

I hope that that explanation is helpful to the committee. On that basis, I invite John Farquhar Munro not to press his amendments.

John Farquhar Munro: Paragraph 2(4) of schedule 2, which refers to disputes between the crofter and landlord on boundaries and conveyancing, states clearly that any

"expenses necessarily incurred by the landlord in relation to that conveyance shall be borne by the crofter."

So, the expense of any conveyance or dispute on boundaries will fall squarely on the crofter. That is clear in the bill. However, when an agreement has not been reached, either the landlord or the crofter should be able to call in the Land Court to determine the boundary or to arbitrate in the dispute and allocate expenses accordingly. That is the simple provision in amendment 152. Accordingly, I press amendment 152.

Ross Finnie: On a point of information, convener. I seek your indulgence to refer to paragraph 2(4) of schedule 2, which inserts new section 13(6) into the 1993 act. The clerk might wish to advise you. It is clear to me that John Farquhar Munro is correct in saying that a determination on the expenses of the conveyance does not extend to the allocation of expenses in dispute.

The Convener: Okay. The question is, that amendment 152 be agreed to. Are we agreed?

Members: No.

The Convener: There will be a division.

AGAINST

Boyack, Sarah (Edinburgh Central) (Lab)
Brocklebank, Mr Ted (Mid Scotland and Fife) (Con)
Gibson, Rob (Highlands and Islands) (SNP)
Macmillan, Maureen (Highlands and Islands) (Lab)
Morrison, Mr Alasdair (Western Isles) (Lab)
Radcliffe, Nora (Gordon) (LD)
Scott, Eleanor (Highlands and Islands) (Green)
Smith, Elaine (Coatbridge and Chryston) (Lab)

ABSTENTIONS

Lochhead, Richard (Moray) (SNP)

The Convener: The result of the division is: For 0, Against 8, Abstentions 1.

Amendment 152 disagreed to.

Amendment 153 not moved.

Amendment 68 moved—[Ross Finnie]—and agreed to.

Amendments 69 to 116 moved—[Alasdair Morrison]—and agreed to.

Schedule 2, as amended, agreed to.

Section 44 agreed to.

Section 45—Transitional provision etc

The Convener: Group 6 is on transitional provisions. Amendment 117, in the name of the minister, is the only amendment in the group.

Ross Finnie: Section 45(1) enables the Scottish ministers to make an order by statutory instrument for any

"incidental, supplemental, consequential, transitional, transitory or saving provision that they consider necessary or expedient for the purposes of, or in consequence of,"

the bill.

The Subordinate Legislation Committee expressed the view that, as drafted, section 45(4) would require a section 45 order to be subject to the draft affirmative procedure where it repealed or amended secondary legislation. That was not the intention, and amendment 117 restricts the draft affirmative procedure to a section 45 order that is to repeal or amend primary legislation. I ask the committee to support this technical amendment.

I move amendment 117.

Amendment 117 agreed to.

Section 45, as amended, agreed to.

Section 46 agreed to.

Schedule 3

REPEALS

Amendments 118 and 119 moved—[Ross Finnie]—and agreed to.

Schedule 3, as amended, agreed to.

Section 47 agreed to.

Long title agreed to.

The Convener: Thank you for that, colleagues. That ends stage 2 consideration of the bill.

An amended version of the bill will be printed overnight and will be made available tomorrow. That seems extremely speedy. Although the Parliament has not yet set a date for the stage 3 proceedings, I am happy to tell you that amendments for stage 3 may now be lodged with the committee clerks. I thank the minister and his officials for their attendance at today's meeting.

Next week, we will have the minister before us to discuss European Union issues, which will include fishing. We very much look forward to that.

Meeting closed at 12:24.

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