



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE

Wednesday 24 February 2016



---

**Wednesday 24 February 2016**

**CONTENTS**

	<b>Col.</b>
<b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>	<b>1</b>
<b>SUBORDINATE LEGISLATION.....</b>	<b>2</b>
Air Quality (Scotland) Amendment Regulations 2016 [Draft] .....	2
Reservoirs (Enforcement etc) (Scotland) Order 2016 [Draft] .....	8
Nature Conservation (Scotland) Act 2004 (Authorised Operations) Order 2016 (SSI 2016/38).....	13
Pollution Prevention and Control (Scotland) Amendment Regulations 2016 (SSI 2016/39) .....	13
Waste Management Licensing (Scotland) Amendment Regulations 2016 (SSI 2016/40).....	13
Reservoirs (Scotland) Regulations 2016 (SSI 2016/43).....	14
Carbon Accounting Scheme (Scotland) Amendment Regulations 2016 (SSI 2016/46) .....	14
Orkney Islands (Landing of Crabs and Lobsters) Order 2016 (SSI 2016/50) .....	14
Croft House Grant (Scotland) Regulations 2016 (SSI 2016/63) .....	14

---

**RURAL AFFAIRS, CLIMATE CHANGE AND ENVIRONMENT COMMITTEE**  
**6<sup>th</sup> Meeting 2016, Session 4**

**CONVENER**

\*Rob Gibson (Caithness, Sutherland and Ross) (SNP)

**DEPUTY CONVENER**

\*Graeme Dey (Angus South) (SNP)

**COMMITTEE MEMBERS**

\*Claudia Beamish (South Scotland) (Lab)

\*Sarah Boyack (Lothian) (Lab)

\*Alex Fergusson (Galloway and West Dumfries) (Con)

\*Jim Hume (South Scotland) (LD)

\*Angus MacDonald (Falkirk East) (SNP)

\*Michael Russell (Argyll and Bute) (SNP)

\*Dave Thompson (Skye, Lochaber and Badenoch) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Claire Dodd (Scottish Government)

Aileen McLeod (Minister for Environment, Climate Change and Land Reform)

Neil Ritchie (Scottish Government)

Andrew Taylor (Scottish Government)

**CLERK TO THE COMMITTEE**

Lynn Tullis

**LOCATION**

The Robert Burns Room (CR1)



## Scottish Parliament

### Rural Affairs, Climate Change and Environment Committee

*Wednesday 24 February 2016*

*[The Convener opened the meeting at 10:00]*

### Decision on Taking Business in Private

**The Convener (Rob Gibson):** Welcome to the sixth meeting in 2016 of the Rural Affairs, Climate Change and Environment Committee. Before we move to the first item on the agenda, I remind everyone present to switch off their mobile phones, or at least put them on silent. You may notice some committee members consulting tablets, which they use for the digitally available papers.

Agenda item 1 is a decision on taking business in private. We are asked to agree to take in private item 7, on correspondence from Scotland's Rural College, and, at future meetings, consideration of our draft legacy report. Do members agree?

**Members** *indicated agreement.*

## Subordinate Legislation

### Air Quality (Scotland) Amendment Regulations 2016 [Draft]

10:01

**The Convener:** Under agenda item 2, the committee will take evidence on the draft Air Quality (Scotland) (Amendment) Regulations 2016. We welcome Dr Aileen McLeod, Minister for Environment, Climate Change and Land Reform; Neil Ritchie, branch head for natural assets and flooding; and Andrew Taylor, air-quality policy manager. Good morning, minister. Do you wish to speak to the draft regulations?

**The Minister for Environment, Climate Change and Land Reform (Aileen McLeod):** Thank you, convener. I am delighted to be here this morning as the committee considers the draft regulations, which I hope will make an important contribution to our continuing efforts to tackle air pollution.

We have made significant progress in improving air quality over recent decades. Emissions from our industrial and domestic sources have been reduced through tighter controls, as have emissions from transport, through increasingly stringent fuel and exhaust emissions standards.

However, pockets of poorer air quality remain in many of Scotland's towns and cities. In almost all cases, transport is the cause, as the increasing number of vehicles on our roads continues to outpace technological improvements.

Unlike the dark smoke belching from factory chimneys and houses in previous times, pollutants including fine particulate matter and nitrogen oxides are largely invisible, but they are no less significant in terms of their impact on human health.

Although poor air quality affects all of us, vulnerable groups of people in society are disproportionately affected: the very young, the elderly and those with existing respiratory and cardiovascular conditions. The Scottish Government is therefore determined to build on our achievements to date and to drive down pollution levels still further.

In November last year we launched "Cleaner Air for Scotland—The Road to a Healthier Future", Scotland's first distinct air-quality strategy, which sets out a long-term vision for us to have the best air quality in Europe.

One of the long list of actions in the strategy is a commitment to introduce a mandatory objective for the fine particulate matter known as PM<sub>2.5</sub>. That is the subject of the draft regulations that we are

considering this morning. An increasing body of scientific evidence shows that PM<sub>2.5</sub> is one of the most significant air pollutants in terms of its impact on human health.

Based on that evidence, we have decided to adopt the World Health Organization's guideline value for PM<sub>2.5</sub> in Scottish legislation, making us the first country in Europe to do so. Achieving that objective will be challenging, but it underlines our commitment to continue delivering improvements to air quality in Scotland.

I ask the committee to support the draft regulations.

**Sarah Boyack (Lothian) (Lab):** A report out yesterday said that 40,000 people across the United Kingdom will die early deaths because of air pollution. Could you spell out for us the particular impact of PM<sub>2.5</sub>, how it affects people's health and what difference the regulations will make in practice regarding cars, lorries, buses and other vehicles, particularly in our cities, where there are failures regarding air-quality management areas? I want to understand what difference the regulations will make in practice and how they will impact on the logistics industry and people using cars in their day-to-day lives.

**Aileen McLeod:** The data that Public Health England published in 2014 covering the whole of the United Kingdom suggested that around 2,000 premature deaths each year in Scotland might be associated with PM<sub>2.5</sub> pollution, so the new objective will provide a focus for addressing that issue. There will obviously be a need to increase the number of PM<sub>2.5</sub> monitoring stations as well.

Consultation on the proposals generated overwhelming support for and recognition of the Scottish Government's commitment to deliver further improvements in air quality. At that, I will hand over to Andrew Taylor.

**Andrew Taylor (Scottish Government):** The important thing about PM<sub>2.5</sub> in health terms is that the particles are obviously very small. They penetrate deeply into the lung and cause respiratory and cardiovascular problems. The larger particles tend to be filtered out before they get to that stage. There is an overwhelming body of evidence that shows that PM<sub>2.5</sub> has significant health impacts.

As the minister said, introducing the new objective will give us a focus on tackling that pollutant in the future. Until now, Scotland has not had a legal objective for addressing PM<sub>2.5</sub>. Bringing the objective into regulations gives us an impetus for taking action and puts a responsibility on local authorities to monitor for the pollutant and to try to assess levels of PM<sub>2.5</sub> pollution in their areas. Once those figures are available, they will

provide the focus for taking action and introducing measures into local air-quality action plans to tackle that important pollutant.

If PM<sub>2.5</sub> is similar to other the pollutants that we are tackling at the moment, which it is likely to be, its major source is likely to be transport, so a lot of the focus of the actions that are taken will be to try to reduce pollutant levels from transport emissions.

**Aileen McLeod:** The cleaner air for Scotland strategy sets out a series of actions for the short, medium and long term. In relation to health, we are including in legislation and Scottish objectives the World Health Organization guideline values for PM<sub>10</sub> and PM<sub>2.5</sub>. We will also require our national health service boards and their local authority partners to include reference to air quality and health in the next revision of their joint health protection plans, which should identify and address specific local priority issues. We obviously also have a long list of actions that we will take in the transport sector.

**Angus MacDonald (Falkirk East) (SNP):** I have some air-quality management areas in my constituency and I have a technical question. How easy will it be, practically, to upgrade the AQMA monitors in local areas to check for PM<sub>2.5</sub>? Is that a fairly straightforward task?

**Andrew Taylor:** We are considering that issue at the moment. We already have a fairly extensive network of monitors for PM<sub>10</sub>, which is a slightly larger size particle. We have a good spread of them throughout Scotland and many of them can be directly modified to introduce a PM<sub>2.5</sub> monitoring element as well. We are in the process of reviewing the network at the moment to find out how many of those existing monitors can be modified in that way and, after that, to identify gaps in the network where we need to introduce completely new monitors.

**Angus MacDonald:** Do you have a timeline for that?

**Andrew Taylor:** That review should be complete in the next two or three months. After that, we will draw up a programme for rolling out the new PM<sub>2.5</sub> monitoring network.

**The Convener:** There was recently news in the press about local authorities failing to monitor the effects in particular streets. A lot of this work ties up with the nature and use of the monitoring equipment. Are you confident that local authorities will be able to cope with those tasks and are ready to do so?

**Aileen McLeod:** All local authorities have air-quality management areas, so they have in place plans that contain a wide range of actions that are designed to improve local air quality. The Scottish

Government is working closely with local authorities and other partners to help them to implement their plans.

**Claudia Beamish (South Scotland) (Lab):** Good morning to you and your officials, minister. My question partly follows on from the convener's question. No business and regulatory impact assessment has been carried out, and committee paper 1 states that the draft regulations have no financial consequences. Will there be costs to local authorities in developing further monitoring? If such costs do not fall to local authorities, where will they fall? Although I appreciate that a lot of research is still to be done into fine particles, I note that Andrew Taylor said that transport was likely to be the cause. To what degree can those dangerous particles be identified? What would happen if the limit were exceeded? What action would be taken?

**Aileen McLeod:** I will let Andrew Taylor answer the second part of your question. On the financial implications of the new objective, as I have said, there is a need to increase the number of PM<sub>2.5</sub> monitoring stations. However, the aim is not to add an additional financial burden to our local authorities, so we will utilise central Government's budgets for that purpose. Where possible, we will modify existing monitoring equipment to reduce costs.

**Andrew Taylor:** On the action that local authorities might take, as the minister has said, many local authorities have in place air-quality action plans that contain a wide range of measures based on monitoring of existing pollutants of concern, such as PM<sub>10</sub>, nitrogen dioxide and sulphur dioxide. By introducing the monitoring of a new pollutant, PM<sub>2.5</sub>, we are simply adapting a well-established process rather than introducing a new requirement for local authorities. However, any local authority that identifies PM<sub>2.5</sub> issues in its local area following monitoring will be expected to develop further action plan measures that focus on that pollutant. In many cases, a lot of the causes and solutions in relation to PM<sub>10</sub> and PM<sub>2.5</sub> will be the same. In practice, a lot of local authorities are taking action that will reduce PM<sub>2.5</sub> anyway. As has been said, having the objective in regulations provides a specific focus for addressing that pollutant.

**Claudia Beamish:** I am still not clear about this. It would be helpful not only for me but for the committee and others more generally to understand what action a local authority can take. What are we likely to see in the action plans if there are fine particles or other health-affecting particles that come from transport?

**Andrew Taylor:** Local authorities can take a range of measures, and what measures they decide to take will depend on local circumstances.

An example would be to clean up vehicles. Local authorities may choose to make emissions improvements to their vehicle fleets, and they may liaise with bus companies to improve the bus fleet and hauliers to improve the heavy goods vehicle fleet. They may consider measures that improve traffic flow or restrict vehicle access to particular areas at particular times. Obviously, each local authority will have a different set of problems.

**Graeme Dey (Angus South) (SNP):** I will follow-up Claudia Beamish's point. I want a bit of clarity. It strikes me that there may be a far bigger picture that goes beyond local and national Government. Where does this issue sit in relation to the World Health Organization report of about three years ago, which identified a problem with the filters in modern diesel vehicles? It emerged that the filters had been tested in long-distance scenarios rather than in vehicles sitting idling in cities. Those idling vehicles spit out particles to a far greater degree than the vehicles with the older-style diesel filters. If the two matters are related, the picture is far bigger than could be addressed by a council or a national Government. Is there any tie up between the two issues?

10:15

**Neil Ritchie (Scottish Government):** A number of actions can be taken. I do not recall the report of two or three years ago that you refer to, but there is work at European Union level on vehicle standards and specifying what is allowed to be manufactured and placed on the roads in the single market. In the past nine months, there has been a high-profile discussion about real-world emissions levels. The minister will hear an update on that at next week's environment council.

We can also do work at the Scotland level. A lot of Andrew Taylor's work with colleagues in Transport Scotland and elsewhere in the Government is about providing support and tools to local authorities to deliver real-world benefits on the ground, rather than replicating that 32 times. As we move forward to deliver the cleaner air for Scotland strategy, we are working with the Scottish Environment Protection Agency on how it can provide further technical support to deliver those targeted local actions.

**Graeme Dey:** Just to be clear, I am not in any way against the measures—we absolutely need to do this. I just wanted information on where we think the issue sits. That World Health Organization report was maybe three or four years ago.

**Dave Thompson (Skye, Lochaber and Badenoch) (SNP):** Of course, electric vehicles have zero emissions, which is one way to ensure that there is no PM<sub>2.5</sub>—or anything else, for that

matter. However, there still seems to be an awful lot of misinformation or misunderstanding out there. As the minister will know, I recently got an electric vehicle—a Nissan Leaf—and I know that electric vehicles are being used effectively on the island of Mull. I saw a lady from Mull quoted as saying that an electric vehicle would be very good in the city and on the island but, for longer distances, fossil fuel vehicles are better. However, that is not actually true. I have used my vehicle to drive down from Inverness to Edinburgh two or three times now. Just over a week ago, I went via Fort William. The only hindrance is the number of rapid charging points, which restricts you a little. You have to plan well in advance, but the situation is improving.

Local authorities and other public bodies could move more rapidly towards electric vehicles. The batteries are improving all the time. If we put more effort into that, that might help to resolve many of the air-quality issues. I am interested in your view on that, minister.

**Aileen McLeod:** You are absolutely right. The Government has invested £11 million in the development of the chargeplace Scotland network of electric vehicle charging points. There are now more than 400 units, which equates to more than 800 public charging bays, with many more being commissioned in the coming months. Work to provide high-powered rapid charging points on strategic routes connecting Scotland's towns and cities is also continuing. There have probably been more sales of electric vehicles in the past year than there were in the previous five years put together.

**The Convener:** Never let it be said that the RACCE Committee fails to look at the minutiae of particulates as well as the minutiae of secondary legislation. It is all very interesting.

As there are no further questions for the minister, we move to agenda item 3, which is consideration of motion S4M-15453.

*Motion moved,*

That the Rural Affairs, Climate Change and Environment Committee recommends that the Air Quality (Scotland) Amendment Regulations [draft] be approved.—[*Aileen McLeod.*]

**The Convener:** Does any member wish to speak?

**Sarah Boyack:** I will just briefly say that I strongly support the measure. However, as has been teased out in the questions from members, although it looks like a really boring statutory instrument, it is potentially quite radical in that it adds to the monitoring process in local authority areas. Before Christmas, I had a members' business debate on air quality, and we have had discussions about bus fleets, lorries, council

vehicles and cars. We will need to make fairly radical changes once we get more monitoring in our communities. In my patch, we have several areas that regularly fail the air-quality management targets.

I do not think that anyone expected us to ask lots of questions about the draft regulations, but this needs to be a trigger for wider change in our transport strategies and in support for our local authorities in cleaning up our air.

**The Convener:** Minister, do you wish to wind up?

**Aileen McLeod:** I am happy not to do so.

*Motion agreed to.*

**The Convener:** We will take a short break to allow the officials to change.

10:20

*Meeting suspended.*

10:21

*On resuming—*

### **Reservoirs (Enforcement etc) (Scotland) Order 2016 [Draft]**

**The Convener:** Item 4 is subordinate legislation. We welcome once again the Minister for Environment, Climate Change and Land Reform, Dr Aileen McLeod, and Scottish Government official Neil Ritchie. They are joined by Claire Dodd, reservoirs policy officer, Scottish Government.

**Aileen McLeod:** I am pleased to still be with the committee to support the committee's consideration of the draft Reservoirs (Enforcement etc) (Scotland) Order 2016.

From 1 April this year, reservoirs in Scotland with a capacity of 25,000m<sup>3</sup> or more will be regulated by SEPA under a new regime that is provided for in part 1 of the Reservoirs (Scotland) Act 2011. Under the new regime, SEPA will regulate each reservoir, taking into account the risk that it poses to public safety. In particular, SEPA will be responsible for ensuring that reservoir managers comply with the duties that are imposed on them under the new regime.

A number of sections in the 2011 act have already been commenced and regulations have been brought into force that create the detailed framework for implementation of the 2011 act. This order is part of that framework and makes provision for a number of new enforcement measures for SEPA. Those enforcement measures will provide SEPA with a better range of



interventions so that it can enforce part 1 of the act effectively and proportionately.

The order will give SEPA the power to serve, first, a stop notice to prohibit a reservoir manager from carrying out certain activities until specified steps have been taken; secondly, a restraint notice to ensure that non-compliant acts do not continue or recur; or, lastly, a restoration notice to require steps to be taken to restore the position to what it would have been if previous non-compliant acts had not been committed.

Those measures are part of a wider framework of enforcement measures open to SEPA and they will not be used in isolation. By virtue of separate legislation that has been made under the Regulatory Reform (Scotland) Act 2014, SEPA also has the option of imposing monetary penalties or of accepting enforcement undertakings in relation to specified offences under part 1 of the 2011 act.

SEPA will also continue to refer significant, persistent and deliberate offending to the Crown Office and Procurator Fiscal Service for consideration of whether to prosecute.

SEPA is well aware of the significance of the additional powers and responsibilities that we propose to give it and it is committed to ensuring that the measures are used responsibly. There are safeguards in the order, such as the right of individuals to make written representations and to appeal against enforcement decisions. In particular, SEPA is also required to publish guidance about the use of the powers conferred on it by the order. We do not expect that enforcement measures will be frequently used. They are intended to support prevention and proportionate risk management.

I ask the committee to support the instrument.

**The Convener:** Thank you. Various members wish to respond to that—Michael Russell, first of all.

**Michael Russell (Argyll and Bute) (SNP):** I am very supportive of the legislation and the order, but I want to probe the situation a little with regard to the reservoirs that are affected and the costs.

The business and regulatory impact assessment states that there are 690 controlled reservoirs of the size under regulation, which is 25,000m<sup>3</sup> or more. Of those, 250 are owned by a variety of private estates, individuals, trusts and community groups. Those are the ones that I am most concerned about, in particular those under individual ownership. There is the potential for very considerable necessary expenditure, particularly as it is an open secret that the Reservoirs Act 1975 was more honoured in the breach than in the observance. We know from

incidents that took place in 2008 and 2009, if I am right, that those reservoirs were not well maintained.

Is there an estimate of how many of those reservoirs require work to be done; of what the cost will be; and of what SEPA will have to do to make that happen? I find it difficult to believe that there will not be a significant cost, and some of the cost will fall on bodies that probably do not have the assets to undertake those repairs. The situation is more complex than it appears. The work will have to be done, but I fear that the Government may in the end have to step in.

**Aileen McLeod:** Claire Dodd may have the details.

**Claire Dodd (Scottish Government):** I do not have the details. The BRIA was carried out for the order. All the reservoirs come under the 1975 act. Not that many changes are being made—a high-risk reservoir must still have a supervising engineer in place at all times and must have a 10-yearly inspection report, as under the 1975 act. I am not aware that there are outstanding issues with regard to what Mr Russell describes.

**Michael Russell:** I am happy to have a conversation about the matter. I seem to recall that an incident near Johnstone, or somewhere in Renfrewshire, resulted in the discovery that there was no supervising engineer who could be contacted. It was recognised that among the lower category of reservoirs—those with a capacity between 10,000m<sup>3</sup> and 25,000m<sup>3</sup>—there were likely to be a number where a supervising engineer might exist but not have been involved for a very long period of time.

My worry does not concern the legislation or the order but the likelihood that significant numbers of reservoirs will be discovered where the resources are not great enough to do the work that is required. I am simply raising the issue because I think that it will require attention from the Government at some stage. By definition, we do not know about these things until something happens.

Secondly, there are likely to be some burdens on reservoirs that are part of properties for sale. I know of one case in my constituency in which the sale has been considerably delayed because of worry about the legislation and what it might mean. I think that legislating is the right thing to do, but we should consider issues such as the fact that some reservoirs may continue to deteriorate because they cannot be sold as burdens are now being applied that cannot be met. Again, because it is a matter of public safety, that would require intervention from the Scottish Government, because local authorities would be very reluctant get involved. The legislation does not sideline local

authorities, but it takes them away from the centre of attention.

**Aileen McLeod:** I am certainly happy to bear that in mind. Mr Russell makes a number of very good points for us to consider further.

**Neil Ritchie:** Further to that, I, like Claire Dodd, am not aware of any significant problems, but we are happy to have a discussion with Mr Russell. It would probably be helpful to involve SEPA in any such discussion, given its operational engagement.

We are in effect talking about the costs of maintaining and running reservoirs, which should be done irrespective of the legislation in place. We are discussing today the order that helps us to deliver and enforce that and avoid problems emerging. We are conscious that there are a number of problems that are not specific to reservoirs in which SEPA gets involved where there can be on-going liability issues associated with abandoned sites. We are actively working, as part of our better environmental regulation, to avoid that happening in the first place.

10:30

**Michael Russell:** There is no point fining people who cannot afford to do the basic maintenance work. That just makes the situation worse. However, I would be grateful for a conversation with SEPA and the Scottish Government to ensure that there is a recognition that some of these problems exist.

**Graeme Dey:** This is on a point of information. If we accept Mike Russell's point about the resources that may be available at the smaller reservoirs, it strikes me that the greater risk might lie there. Why are things being done in a staged way, with the reservoirs of between 10,000m<sup>3</sup> and 25,000m<sup>3</sup> coming into the regime at some point in the future? When will that happen?

**Aileen McLeod:** Under the old regime, all the reservoirs with a capacity of 25,000m<sup>3</sup> of water or more were regulated in a similar way. Under the new regime, SEPA will assess the risk that each reservoir poses. Those that pose a greater risk will be inspected more frequently and will be more closely regulated. We have said that, from 1 April this year, SEPA will assume full responsibility for the regulation of reservoirs with capacities greater than 25,000m<sup>3</sup>. At some point in the future—Neil Ritchie can perhaps clarify this—the regime may be extended to regulate reservoirs with a capacity of between 10,000m<sup>3</sup> and 25,000m<sup>3</sup> for the first time.

**Neil Ritchie:** When we introduced the bill that became the Reservoirs (Scotland) Act 2011, we were clear that we were focusing on the existing

regulatory regime for reservoirs of 25,000m<sup>3</sup>, which we thought represented the greater opportunity and potential risk. Once we have that regime in place, we will be looking to extend it. I cannot give a precise timing at this point, because we will need to have that discussion with wider stakeholders including individual operators of the smaller reservoirs, but there is an intention to expand the measures.

A further issue that we need to take into account is the resourcing that is required to do that. It has been quite an extended process to do all the required mapping to understand the risks and to identify which category the 25,000m<sup>3</sup> reservoirs fit within.

**Graeme Dey:** Do we know roughly how many of the smaller reservoirs currently exist in Scotland?

**Neil Ritchie:** No, we do not have a firm figure. We did not have a firm figure for the 25,000m<sup>3</sup> ones until last year and until the registration process had been undertaken. If I recall correctly, when we went through the Reservoirs (Scotland) Bill, our initial estimate was around 500 to 600 reservoirs. At that point, we thought that 600 was at the upper end of the spectrum.

**Claudia Beamish:** Has there been or is there likely to be any assessment of the relationship between more extreme weather events and these reservoirs? I ask mainly because constituents have raised issues with me about reservoirs in South Scotland. I understand from SEPA that those arose from misinformation—rumours rather than fact—and the matter has been clarified for my constituents. However, there is an issue there. I suspect that it does not fit specifically within the order on enforcement, but the issue of risk obviously fits somewhere.

**Aileen McLeod:** I will answer your question in two parts. The 2011 act requires SEPA to

“establish and maintain”

a public

“controlled reservoirs register”,

which includes flood maps. Those reservoir flood maps show the area of land that is likely to be flooded in the event of an uncontrolled release of water from a reservoir. That relates to the very low-likelihood situation of a structure or structures completely failing. The main purpose of the maps was to assist SEPA in assigning a risk designation to each reservoir, as required by the 2011 act. Obviously, the risk of water escaping from a reservoir is extremely low, and there have been no major dam failures in the UK since the advent of the first reservoir safety legislation in 1930.

We know that reservoirs can be used for flood storage purposes. St Mary's Loch, in the Scottish

Borders, is an example of that. It is part of the Selkirk flood protection scheme and can be used to store water during a flood event. Last December, the works at St Mary's Loch helped Selkirk to avoid the worst of the flooding damage that was caused by storm Desmond.

Taking water out of a reservoir can be a complex matter. In general, reservoirs are not managed as flood defences.

**The Convener:** We move on to the Croft House Grant (Scotland) Regulations 2016.

**The Convener:** As there are no further questions, we will move to item 5, which is to consider motion S4M-15450 and ask the committee to recommend approval of the Reservoirs (Enforcement etc) (Scotland) Order 2016 [draft].

*Motion moved,*

That the Rural Affairs, Climate Change and Environment Committee recommends that the Reservoirs (Enforcement etc) (Scotland) Order 2016 [draft] be approved.—[*Aileen McLeod.*]

*Motion agreed to.*

**The Convener:** I thank the minister and her officials.

### **Nature Conservation (Scotland) Act 2004 (Authorised Operations) Order 2016 (SSI 2016/38)**

**The Convener:** Item 6 is for the committee to consider seven negative instruments, which are listed on the agenda. I refer members to the paper. I will go through each one in turn and ask whether there is any comment to be made.

If members have no comments on SSI 2016/38, does the committee agree to make no recommendation on the order?

**Members indicated agreement.**

### **Pollution Prevention and Control (Scotland) Amendment Regulations 2016 (SSI 2016/39)**

**The Convener:** If there are no comments on the regulations, does the committee agree to make no recommendation on the instrument?

**Members indicated agreement.**

### **Waste Management Licensing (Scotland) Amendment Regulations 2016 (SSI 2016/40)**

**The Convener:** If members have no comments on the regulations, does the committee agree to make no recommendation on the instrument?

**Members indicated agreement.**

### **Reservoirs (Scotland) Regulations 2016 (SSI 2016/43)**

**The Convener:** Members have no comments on the regulations. Does the committee agree to make no recommendation on the instrument?

**Members indicated agreement.**

### **Carbon Accounting Scheme (Scotland) Amendment Regulations 2016 (SSI 2016/46)**

**The Convener:** If there are no comments on the regulations, does the committee agree to make no recommendation on the instrument?

**Members indicated agreement.**

### **Orkney Islands (Landing of Crabs and Lobsters) Order 2016 (SSI 2016/50)**

**The Convener:** Do members have any comments on the order?

**Dave Thompson:** I have a quick point on egg-bearing female velvet crabs. The cover note states that this order applies only to British fishing boats, and I know that we have discussed similar things in the past. It says:

"The prescribed minimum landing sizes and the prohibition set out in article 6 apply only to landings from British fishing boats."

Those sizes relate to egg-bearing female velvet crabs. The cover note says that the reason for that is that

"While foreign fishing boats are therefore exempted, records show that they do not make landings of velvet crab, green crab or lobster into the Orkney Islands."

However, the point is about whether such boats fish there, and whether they are catching egg-bearing female velvet crabs. I wonder whether we could pursue that with the Government. Can we establish whether that is the case, and why the exemptions exist?

**The Convener:** Following up on that, and looking at the map, I think that we ought to add the question of whether the boats fish in the areas that are shown in the map. Those are the areas that the order reflects. We can write to the minister to try to find out about that. Do members want to make any other points about this one? They do not.

### **Croft House Grant (Scotland) Regulations 2016 (SSI 2016/63)**

**Michael Russell:** I am pleased with the regulations. They will assist crofters and would-be crofters in my constituency. I would like an assurance that the scheme will continue to be

administered from Tiree, because it is important that it is done within the Highland areas and it is welcome to see a diversification of work into a Scottish island, particularly one in my constituency. I would like to ensure that that continues to be the case.

**The Convener:** We will write about that.

**Dave Thompson:** Equally, I welcome the regulations. They are a huge step forward. They were long overdue, but I am pleased that the Government has moved down this road.

The guidance will be crucial and the information that we have says that we will get the guidance before the regulations come into force. They come into force on 1 April, and it would be useful if we could see that guidance sooner rather than later because it is important to see exactly who will be eligible for the higher level of grant, for instance, particularly crofters on the mainland parts of the crofting counties.

**The Convener:** As an MSP with crofting areas in my constituency, I echo my colleagues' remarks. During our consideration of the Land Reform (Scotland) Bill, we talked about potential eco-friendly designs for houses. In parallel with the kind of regulations that are being introduced, we would expect the Crofting Commission to work on such things to help modular approaches that would allow people to build cheaper and much more fuel-efficient houses. Now that that is on the record, I hope that we will keep that line of inquiry going.

However, as Dave Thompson says, the regulations are welcome. If there are no other comments on the regulations, does the committee agree to make no recommendation on the instrument?

**Members** *indicated agreement.*

**The Convener:** At the next meeting of the committee, we will host two round-table sessions with stakeholders ahead of consideration of the committee's legacy report, as well as considering subordinate legislation and petitions.

I now close the public part of the meeting. The committee will move into private, as agreed earlier. We need the public to clear the gallery.

10:42

*Meeting continued in private until 11:17.*

This is the final edition of the *Official Report* of this meeting. It is part of the Scottish Parliament *Official Report* archive and has been sent for legal deposit.

---

Published in Edinburgh by the Scottish Parliamentary Corporate Body

All documents are available on  
the Scottish Parliament website at:

[www.scottish.parliament.uk](http://www.scottish.parliament.uk)

Information on non-endorsed print suppliers  
Is available here:

[www.scottish.parliament.uk/documents](http://www.scottish.parliament.uk/documents)

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000

Textphone: 0800 092 7100

Email: [sp.info@scottish.parliament.uk](mailto:sp.info@scottish.parliament.uk)

---