



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 7 December 2016

Session 5



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Pàrlamaid na h-Alba

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RURAL ECONOMY AND CONNECTIVITY COMMITTEE
13th Meeting 2016, Session 5

CONVENER

*Edward Mountain (Highlands and Islands) (Con)

DEPUTY CONVENER

*Gail Ross (Caithness, Sutherland and Ross) (SNP)

COMMITTEE MEMBERS

*Peter Chapman (North East Scotland) (Con)

*Mairi Evans (Angus North and Mearns) (SNP)

*John Finnie (Highlands and Islands) (Green)

*Rhoda Grant (Highlands and Islands) (Lab)

*Jamie Greene (West Scotland) (Con)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*John Mason (Glasgow Shettleston) (SNP)

*Mike Rumbles (North East Scotland) (LD)

*Stewart Stevenson (Banffshire and Buchan Coast) (SNP)

*attended

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 7 December 2016

[The Convener opened the meeting at 10:39]

Decision on Taking Business in Private

The Convener (Edward Mountain): Welcome to the 13th meeting in 2016 of the Rural Economy and Connectivity Committee. I remind everyone to switch off their mobile phones. No apologies have been received.

The first item is to seek the committee's agreement to consider in private agenda item 4, on the committee's approach to the Scottish Government's draft climate change plan and third report on proposals and policies, and item 5, on appointment of a tenant farming commissioner. Is that agreed?

Members *indicated agreement.*

John Finnie (Highlands and Islands) (Green): Could you clarify why item 5 is being taken in private?

The Convener: It is for me to give the committee feedback on the tenant farming commissioner following a meeting that I attended last week. The recommendation has already been passed to the Government, so it is just to give my observations.

John Finnie: I presume that that is information that we would benefit from discussing in public.

The Convener: I would rather deal with the item in private. A record will be made of what I say, but I would like to give the information in private in the first instance, so that members are aware of my thoughts.

Mike Rumbles (North East Scotland) (LD): If it is a question of whether information is for public consumption, it is worth noting that the meeting that you attended was all in public, was it not?

The Convener: That is correct.

John Finnie: That adds to my confusion. Why would we thereafter discuss the meeting in private?

The Convener: I think that I would like to do it in private so that I can be frank and can explain the process and the line of questioning that I came up with. We will make a record of my observation and

of the committee's thoughts afterwards. I would rather do it that way, if I may, please, John.

John Finnie: Okay.

The Convener: Thank you. I asked whether we agreed to take those items in private—can I confirm that that is agreed?

Members *indicated agreement.*

Subordinate Legislation

**Land Reform (Scotland) Act 2016
(Consequential and Saving Provisions)
Regulations 2016 (SSI 2016/366)**

**Land Reform (Scotland) Act 2016
(Consequential and Saving Provisions)
Amendment Regulations 2016 (SSI
2016/389)**

10:41

The Convener: Item 2 is to deal with two instruments that are subject to the negative procedure, as detailed on the agenda. The instruments relate to agricultural holdings. The committee will consider whether there are any issues that it wishes to raise in reporting to Parliament. Members should note that no motions to annul the instruments have been lodged.

No members have comments. Does the committee therefore agree not to make any recommendation on the instruments?

Members *indicated agreement.*

Maritime and Coastguard Agency (Memorandum of Understanding)

10:42

The Convener: Item 3 is to note the draft memorandum of understanding between the Scottish Government and the Maritime and Coastguard Agency, as outlined in paper 2. Members should be aware that, since the paper was issued, it has emerged that there is no requirement for the committee to report on the MOU to Parliament or for Parliament to approve it. The Parliamentary Bureau has therefore referred the document to the committee for it to note only, because the Scottish Parliament is not named as a party to the document. Members will note that the memorandum of understanding states that the Maritime and Coastguard Agency accounts and annual report will be shared with Transport Scotland, which will enable their being laid before the Scottish Parliament. Also,

“If required to do so, the MCA would submit relevant reports to, and appropriate officials would appear before, the committee of the Scottish Parliament regarding the exercise of functions relating to the coastguard and the safety of ships and seafarers in Scotland.”

I invite comments on the memorandum of understanding.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I will highlight a technical point that I do not think should lead us to take any action, but it would be useful to put it on the record. Paragraph 3.2 of the MOU states that “Scotland” is to be defined as it is in the Scottish Adjacent Waters Boundaries Order 1999, which in essence defines the seaward limits as 55 degrees, 26 minutes and 37 seconds north, and 6 degrees, 34 minutes and 40 seconds west. However, that is only for certain purposes related to fisheries. The other piece of legislation that matters is the Continental Shelf (Designated Areas) (Extended Territorial Sea) Order 1987, which uses a different set of co-ordinates to define the border. There is, by my approximation, an area of around 6,000 square miles that for the purposes of fishing is not in Scottish waters, but for the purposes of exploitation of oil and gas is in Scottish waters from a legal point of view.

It is worth making the point that the excluded area under the memorandum of understanding does not relate to the oil and gas law that would be applied by Scottish law enforcement agencies and courts and so is not an area in which the Scottish Parliament has legislative competence. Therefore, it is proper that we merely note that difference. I would have preferred a memorandum of understanding—which has no legal force but which represents something serious—that talked

about the 1987 order. However, having made that point, I do not propose that the committee should respond to it in any way whatsoever.

10:45

The Convener: Your point is made.

John Mason (Glasgow Shettleston) (SNP): In the light of your opening remarks, convener, I want clarification of something. Our paper says:

“The Committee is invited to ... consider whether it is content to recommend that the Parliament approve the MoU.”

Is that correct?

The Convener: No, that has changed. We are being asked just to note the MOU. It is just to say that we have seen it coming through.

John Mason: Thank you—that is fine.

Mike Rumbles: I want to place on the record that the issue was raised in the Parliamentary Bureau on Tuesday of this week and that it was made clear that we could, if we wish—I am not saying that we should—produce a report and there could be a short debate in Parliament. After considering the memorandum, I do not think that there is any need to do that, but it should certainly be noted for the public that we have the power to do that if we wish.

The Convener: Okay. Thank you.

Jamie Greene (West Scotland) (Con): My first question is the one that John Mason asked. For clarification, are we being asked to consider rather than to approve or give consent to the MOU?

The Convener: Yes.

Jamie Greene: Should any questions or points for clarification that we have therefore be directed to Transport Scotland or the Scottish Government?

The Convener: We could write to Transport Scotland if there are specific points that you would like to raise.

Jamie Greene: For the record, page 3, section 4, which is on the operation of the MOU, states:

“Scottish Government Ministers may appoint a named individual to the MCA Advisory Board”.

Who would make that decision and what process would they follow? There is no requirement to answer that question now, but it would be interesting to know the answer for the record.

The Convener: We will write to ask for clarification of the process.

Jamie Greene: We should encourage the Government to make full use of the MOU by appointing someone and sending them or a

deputy to the board meetings so that we know what is happening at that agency.

My other point is a general one on MOUs and is again for the public record. Each MOU seems to follow a slightly different format in terms of the role of the committee and Parliament. The clerks may take that up later.

The Convener: That is definitely noted.

Rhoda Grant (Highlands and Islands) (Lab): On the appointment of a person to the board, will that person be the route for consultation with the Scottish Government or is there another route for that? What will be the role of the person on the board? Will they feed back information or will there be another consultation process working in tandem?

The Convener: If the committee is content with the approach, we will write to ask about the selection process and how the Scottish Government feeds into that. We can definitely do that.

John Finnie: I have a comment. There might be opportunities further down the line for the committee to take evidence from whomever is appointed. If the person was currently in place, we would be able to do that in relation to the shocking situation in the Moray Firth regarding ship-to-ship transfer of oil, in which there is apparently a dearth of interest from the Scottish Government. It is a reserved matter but, as you will be fully aware, convener, the local communities are deeply concerned. I hope that you will join them in their concern about the potential environmental disaster. If we had someone on the board, we would have an opportunity to discuss that.

The Convener: Thank you for raising that very good constituency point. It is not for me to answer that here, but we can raise with the Government the process and how the MCA feeds back to the Scottish Parliament and Government.

Mike Rumbles: On Mr Finnie’s point, under paragraph 3.5, “pollution response operations” or the potential for pollution are not part of the memorandum of understanding. That is not within the competence.

The Convener: I am reading that paragraph again just to remind myself of what it says.

Stewart Stevenson: It might be useful to look at paragraph 4.6, which says:

“If required to do so, the MCA would submit relevant reports to, and appropriate officials would appear before, the Committees of the Scottish Parliament regarding the exercise of functions relating to the coastguard and the safety of ships and seafarers in Scotland.”

That seems to be all-encompassing. Ultimately, it would be useful for us to bear that in mind.

The Convener: The point is that it is clear that we can, once the individual has been appointed, ask them to appear before the committee. If that is the committee's wish, I will make every effort to ensure that that happens.

John Finnie: On Mike Rumbles's point, there will, of course, be consultation on strategic priorities, and what could be more strategic than protecting the main industry of the Highlands and Islands, which is tourism and our environment? I suggest that we need to be ambitious.

The Convener: I take your point, which you have now made twice.

Richard Lyle (Uddingston and Bellshill) (SNP): As well as being able to ask the official to come along, we could ask the MCA to come along. Given the point that my colleague John Finnie made about ship-to-ship transfer of oil, that might be a subject that we want to get into.

The Convener: I believe that that is absolutely right: if it wants, the committee can ask the MCA to appear before us, as well as the person who is appointed by the Scottish ministers.

We are being asked to note the draft MOU, so rather than prolong the discussion, I invite the committee to indicate whether it is happy to write to ask about the process for selecting the person who will represent Scotland's interests on the advisory board.

Stewart Stevenson: We should also ask to be notified of who is appointed in due course.

The Convener: Okay. In addition we should at the appropriate time invite someone to come to the committee to explain the work that is being done. Is everyone content with that?

Members *indicated agreement.*

The Convener: Is the committee happy to note the draft MOU?

Members *indicated agreement.*

The Convener: That concludes the public part of the meeting.

10:52

Meeting continued in private until 11:32.

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.

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