



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Economy and Connectivity Committee

Wednesday 23 January 2019

Session 5



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Wednesday 23 January 2019

CONTENTS

	Col.
FISHERIES BILL	1
EUROPEAN UNION (WITHDRAWAL) ACT 2018	6
Connecting Europe Facility (Revocation) (EU Exit) Regulations 2019	6

RURAL ECONOMY AND CONNECTIVITY COMMITTEE

3rd Meeting 2019, 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)

*John Finnie (Highlands and Islands) (Green)

*Jamie Greene (West Scotland) (Con)

*Richard Lyle (Uddingston and Bellshill) (SNP)

*John Mason (Glasgow Shettleston) (SNP)

*Mike Rumbles (North East Scotland) (LD)

*Colin Smyth (South Scotland) (Lab)

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

*Maureen Watt (Aberdeen South and North Kincardine) (SNP)

*attended

CLERK TO THE COMMITTEE

Steve Farrell

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Economy and Connectivity Committee

Wednesday 23 January 2019

[The Convener opened the meeting at 08:52]

Fisheries Bill

The Convener (Edward Mountain): Good morning and welcome to the committee's third meeting in 2019. I ask everyone to make sure that their mobile phones are on silent.

Item 1 is a legislative consent memorandum, which has been lodged by Fergus Ewing, Cabinet Secretary for the Rural Economy, on the Fisheries Bill, which is currently being considered by the United Kingdom Parliament. The legislative consent memorandum covers areas of the bill that the UK Government regards as requiring legislative consent from the Scottish Parliament.

The Scottish Government agrees with the UK Government's assessment of where consent is needed, except in relation to clauses 18 and 19, which provide for the secretary of state to set the UK's fishing opportunities—the quota and effort—and duties for a calendar year. The UK Government does not consider that consent from the Scottish Parliament in that regard is necessary; its view is that clauses 18 and 19 relate to reserved matters. However, the Scottish Government believes that legislative consent is necessary. The Scottish Government is seeking an amendment to clause 18, so that determinations that are made under that clause, in so far as they relate to Scotland, will be taken only with the consent of the Scottish ministers.

The Scottish Government is awaiting the Department for Environment, Food and Rural Affairs's reasoning as to why it does not believe that consent is required for clauses 20, 29 and 30.

In the legislative consent memorandum, the Scottish Government indicates that it does not intend to lodge a legislative consent motion in relation to the bill at this time. It considers that the approach that has been taken to the bill is not consistent with devolved responsibilities, and it is seeking urgent discussions with the UK Government on how to strengthen and protect the Sewel convention. In the memorandum, the Scottish Government says:

"The Scottish Government will consider progress in those discussions in deciding its position on seeking legislative consent for this Bill as"

UK

"Parliamentary consideration proceeds."

In its report on the delegated powers in the bill, the Delegated Powers and Law Reform Committee recommended that this committee, as the lead committee,

"considers what role is envisaged for the Scottish Parliament in the scrutiny of decisions by the Scottish Ministers to consent to any regulations being made by the Secretary of State",

under certain provisions that relate to devolved powers. As the lead committee, we are required to reflect on the memorandum and consider whether we are content with its terms. We will then need to report our findings to the Parliament. I invite members to comment.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I will not talk about the policy content of the UK Fisheries Bill; that is for another day. At this stage, I am interested only in the process by which the bill is taken forward.

In relation to clauses 20, 29 and 30, the fact that the Scottish Government and the UK Government have not yet bottomed out whether there is agreement or disagreement on the requirement for legislative consent means that our approval—or withholding of approval—today would have to be conditional, because we need to know more. On that basis, I am relatively content to note the legislative consent memorandum, with the caveat that we want the Scottish Government to keep us up to date.

In relation to the DPLR Committee's comments about regulations, this committee should note the interesting point that there is no legislative consent motion process for regulations that are dealt with at Westminster. As far as I can determine, I do not think that the Scottish Government is objecting to that happening, but there is a wider issue for the Scottish Parliament. I am uncertain as to how we should deal with that, to be candid. I have nothing to say about what is actually happening, but I suggest that there is a little lacuna in our processes, which might be something for the Standards, Procedures and Public Appointments Committee to contemplate—not just in relation to regulations made under the Fisheries Bill but more widely.

John Finnie (Highlands and Islands) (Green): I agree with Stewart Stevenson. Fishing is a hugely important issue, on which there is a lot of common ground between the UK and Scottish Governments, which is helpful.

I support the Scottish Government's position on clause 18, for which I think consent is required.

One of the proposals in our briefing, which I support, is that we ask the Scottish Government to keep us updated. Equally, given that there are

always two sides to a position, I wonder whether we could write to the UK Government to ask it to explain its position.

I note paragraph 14 of our briefing, which refers to

“proposals for how the Scottish Parliament’s confidence in the operation of the legislative consent convention could be restored.”

It is important that everyone has confidence in the Sewel process, so I ask that that be considered, as well.

Mike Rumbles (North East Scotland) (LD): I think that I agree with John Finnie with regard to the content of the issue, but there are some process issues that I just want to think through. Correct me if I am wrong, convener, but our role as a committee is to scrutinise Scottish ministers giving consent to an LCM. As there is no LCM before us, the proposal is to ask the Scottish Government to keep us informed about what is happening down the line so that we can play our role when the LCM is lodged. I think that it only muddies the waters if the committee starts writing to the UK Government—we should focus on our actual role.

John Finnie: I can see that that is a point of view, but our job is also to scrutinise what we are told by the Scottish Government. After all, no one had any issue with our taking evidence—and rightly so—from Mr Gove on important agricultural matters. It is important that we get both versions of events.

Peter Chapman (North East Scotland) (Con): I very much support Mike Rumbles’s position on writing to the UK Government. Our role and responsibility lies here with the Scottish Government, and I think that that is where it should remain.

John Mason (Glasgow Shettleston) (SNP): I agree that our responsibility is to examine the Scottish Government, but that would normally include taking evidence from parties that potentially disagree with it. The more evidence we get, the better.

Jamie Greene (West Scotland) (Con): In your opening remarks, convener, you said that the Scottish Government was awaiting feedback from UK ministers and DEFRA. Instead of writing to the UK Government for that information, can we suggest that the information that is shared with the Scottish Government be shared with the committee, too?

09:00

The Convener: I think that we have some way to go before we bottom out this issue with regard to the Fisheries Bill. Taking into account what

members have said and the general opinion around the committee table, I think that it would be right not just to note to the Scottish Government the content of the legislative consent memorandum but to request that we be kept updated. I believe that the UK Government should update us and keep us as well as the Scottish Government informed on its proposed amendments to the bill, because that would help us make an informed decision. That would also cover discussions on the operation of the Sewel convention, to make sure that we are happy with that.

We should also call on the Scottish Government to provide details of how it intends to ensure that the Scottish Parliament has a role in scrutinising any decisions by the Scottish ministers to consent to any regulations that are made by the secretary of state under clauses 9(3), 11(2), 31(1) and 33 of the Fisheries Bill. I think that that is the general view around the table.

Stewart Stevenson: I do not fundamentally disagree with how you laid out your last point, convener, but I would say that the Parliament is master of the Parliament’s process. It is not for the Government to decide that, although it would be helpful if the Government were to act in the way that you have described. I suggested that we invite the Standards, Procedures and Public Appointments Committee to consider the issue. There might not be support for that proposal around the table, but I would like to test the waters in that respect on the principle that the Parliament, not the Government, is responsible for the Parliament’s processes.

Mike Rumbles: I fully agree. We have to be careful about this; indeed, I objected the last time that a minister suggested what the committee should be doing, because it is entirely the wrong approach. As a parliamentary committee and as the Parliament itself, we should be in charge of our own affairs, and I therefore agree entirely with what Stewart Stevenson has just said.

The Convener: Surely that is what we are doing by calling on the Scottish Government to ensure that we have a role in looking at this issue. We are saying that we as a committee believe that this is the right way to move forward.

Stewart Stevenson: I am perfectly content to insist that the Scottish Government respects the Scottish Parliament—I have no difficulty with that. I merely make the additional point, which I suspect Mr Rumbles agrees with, that it seems that there is potentially—and I put it only at that level—a lacuna in our processes. The Standards, Procedures and Public Appointments Committee could look the matter over in two minutes and decide that it disagrees and that it will not take it forward—that is up to it; we do not control what it

does. I am suggesting only that we invite it to think about the matter.

The Convener: We can certainly include that suggestion in our report, see what position the Standards, Procedures and Public Appointments Committee takes and then reflect on that. It would be a decision for that committee.

Is the committee happy to move forward along the lines that I have suggested and with that addition to the report?

Members indicated agreement.

European Union (Withdrawal) Act 2018

Connecting Europe Facility (Revocation) (EU Exit) Regulations 2019

09:03

The Convener: Item 2 is consideration of a consent notification for a UK statutory instrument on the connecting Europe facility. The instrument, which is being laid in the UK Parliament in relation to the European Union (Withdrawal) Act 2018, has been categorised as category A, which means that the transition from the European Union to a UK framework would involve no policy change, just a simple revocation.

Does anyone have any comments?

Stewart Stevenson: I would just make the obvious comment that this has to be decided by tomorrow, which, as far as timing is concerned, is not a very satisfactory place to be. I understand perfectly the logistical issues around this whole business and I know that civil servants are having to work extremely long hours on this, but I think that we should formally note the point.

The Convener: It is also important to note the committee's extremely heavy workload in achieving all that we are trying to achieve with transport bills and other bills that we are being asked to consider.

Does the committee agree to write to the Scottish Government to confirm that it is content for the consent for the UK SI referred to in the notification to be given; to note and request a response from the Scottish Government on the wider policy matters identified; and to note the short timescale involved and the committee's own heavy commitments?

Members indicated agreement.

The Convener: Thank you. We now move into private session.

09:05

Meeting continued in private until 11:16.

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