



OFFICIAL REPORT
AITHISG OIFIGEIL

Environment, Climate Change and Land Reform Committee

Tuesday 26 March 2019

Session 5



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ENVIRONMENT, CLIMATE CHANGE AND LAND REFORM COMMITTEE
11th Meeting 2019, Session 5

CONVENER

*Gillian Martin (Aberdeenshire East) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

*Claudia Beamish (South Scotland) (Lab)

*Finlay Carson (Galloway and West Dumfries) (Con)

*Angus MacDonald (Falkirk East) (SNP)

*Mark Ruskell (Mid Scotland and Fife) (Green)

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

*attended

THE FOLLOWING ALSO PARTICIPATED:

Mark Christie (Marine Scotland)

Joanna Dingwall (Scottish Government)

Paul Wheelhouse (Minister for Energy, Connectivity and the Islands)

CLERK TO THE COMMITTEE

Lynn Tullis

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Environment, Climate Change and Land Reform Committee

Tuesday 26 March 2019

[The Convener opened the meeting at 09:30]

Subordinate Legislation

Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2019 [Draft]

The Convener (Gillian Martin): Welcome to the Environment, Climate Change and Land Reform Committee's 11th meeting in 2019. I remind everyone to switch off their mobile phones as they might affect the broadcasting system.

Under agenda item 1, the committee will take evidence on the draft Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc) Order 2009—sorry, I mean 2019; I went back in time there. I am delighted to welcome Paul Wheelhouse, the Minister for Energy, Connectivity and the Islands; Mark Christie, policy officer for Marine Scotland; and Joanna Dingwall, lawyer for the Scottish Government. Good morning to you all.

Minister, do you have anything to say up front before we go to questions?

The Minister for Energy, Connectivity and the Islands (Paul Wheelhouse): I have some very brief opening comments, convener.

Good morning, everyone. I thank the committee for inviting me to talk about the draft order. The aim of this section 30 order is to provide legal certainty surrounding the Scottish ministers' powers concerning environmental impact assessments in relation to electricity generating stations that are consented under section 36 of the Electricity Act 1989 and are located in the Scottish part of the renewable energy zone.

The draft order came about following a routine regulatory review in 2017, during which we recognised the need for legislative clarity in this area. It clarifies that Scottish ministers can exercise regulatory powers concerning EIAs in the Scottish part of the REZ. Legal clarity in the area is important in order to prevent any ambiguity for decision makers and stakeholders, and to ensure that the United Kingdom meets its obligations under European Union law to fully transpose the EIA directive. I believe that the draft order will minimise any risk of legal challenge.

The draft order will have no impact on the offshore renewables industry or on the way in which offshore renewable energy applications are assessed or determined.

I look forward to questions that members might have.

The Convener: Thank you very much.

Mark Ruskell (Mid Scotland and Fife) (Green): At some point, the directive and the source regulations will change in the European Union. What are the Government's plans for staying in regulatory alignment with the EU, following any changes that the EU might make?

Paul Wheelhouse: We are discussing that matter with UK ministers. We are awaiting clarity on what exit from the EU might look like. Of course, those of us who wish to remain in the EU still hope that there is a slim chance that we might do so, but, if we are to leave, we will need to know what the landscape will look like. Across a number of measures that affect the energy sector, including environmental impact assessments and other matters that affect colleagues in the environment portfolio, we are still seeking clarity on the long-term relationship with the EU that the UK wishes to have.

The Scottish Government believes that we should maintain the regulations that have been developed for good reason during our membership of the EU, and we certainly support retention of the EU emissions trading system and other measures that support the development of the renewable energy sector. There is a great deal of consensus in that regard, not just in the Scottish Parliament, but in other legislatures across the UK, and we are keen for that to continue.

We are trying to ensure that the directive is adhered to. It might seem odd that we are doing that work during the on-going Brexit negotiations, but we do not yet know when—or even if—the UK will leave the EU, so it is important that we comply with the regulations and directives that are placed upon us.

Mark Ruskell: Is there the potential for regulatory divergence from the rest of the UK in relation to the EIA regulations?

Paul Wheelhouse: I always take the view that Scotland should do what is right for Scotland. I am in Parliament to do what is right for Scotland's people and environment. If it makes sense in the interests of the sector or the economy more generally for there to be alignment with the rest of the UK, we will seek it. However, we reserve the right to vary our approach from that taken UK-wide if that is in the interests of the people or the environment of Scotland.

Stewart Stevenson (Banffshire and Buchan Coast) (SNP): I have a question on a related point that you may or may not be briefed on, although Mark Christie might be. Might a similar issue arise in relation to section 37 of the Electricity Act 1989, which provides ministers with the power to give consent to high-voltage transmission? I am particularly interested in that, as the convener might also be, because of the subsea cable that is proposed between the edge of my constituency—it might even go into the convener's constituency, although there is slight uncertainty about that—and Norway. There have also been recent discussions concerning cables from Shetland and the Western Isles. I am unclear whether section 37 gives the Scottish ministers power over subsea cables, although I know that it gives them power over lines on land. It strikes me that there might be a similar issue in that regard because, surely, EIAs are associated with consents under section 37 as well.

Paul Wheelhouse: I follow Mr Stevenson's logic. For the record, I point out that we are supportive of the NorthConnect project between Norway and either Mr Stevenson's or Ms Martin's constituency. I appreciate Mr Stevenson's point. It would be logical to ask Mark Christie or Joanna Dingwall to address it.

Mark Christie (Marine Scotland): If it is okay with the committee, I will look into that and get back to you. Off the top of my head, I am not sure whether the issue applies to section 37. I personally have not looked into that. I do not know whether Joanna Dingwall knows any more than that.

Joanna Dingwall (Scottish Government): I agree with Mark Christie—we would need to look into the issue and write back to the committee.

Stewart Stevenson: I am content with that, convener. I just wanted to get the issue on the record when we had the opportunity.

Paul Wheelhouse: It is worth restating that the section 36 issue is a specific loophole or area where clarity is required that was identified in a review, and that is why we are addressing it today.

The Convener: Thank you for answering those questions, minister.

We move on to agenda item 2, which is consideration of motion S5M-16387.

Motion moved,

That the Environment, Climate Change and Land Reform Committee recommends that the Scotland Act 1998 (Transfer of Functions to the Scottish Ministers etc.) Order 2019 [draft] be approved.

Motion agreed to.

The Convener: Are members content for me to sign off the committee's report on the draft order?

Members indicated agreement.

09:38

Meeting suspended.

09:39

On resuming—

European Union (Withdrawal) Act 2018

Wildlife and Countryside Act 1981 (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/84)

The Convener: Under agenda item 3, the committee will consider whether the regulations have been laid under the appropriate procedure. Members should note that the regulations have been laid under the negative procedure. As there are no comments, are members content for the regulations to be considered under the negative procedure?

Members *indicated agreement.*

The Convener: The regulations will be considered under the next agenda item.

Subordinate Legislation

Wildlife and Countryside Act 1981 (EU Exit) (Scotland) (Amendment) Regulations 2019 (SSI 2019/84)

09:40

The Convener: Under agenda item 4, the committee will consider the regulations. As members have no comments, are we content to make no recommendations in relation to the regulations?

Members *indicated agreement.*

The Convener: That concludes the committee's public business. At the committee's next meeting, which will be on 23 April, we will consider the potential impact of European Union exit on the environment.

We now move into private session, so I ask that the public gallery be cleared.

09:40

Meeting continued in private until 12:35.

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