



OFFICIAL REPORT
AITHISG OIFIGEIL

Rural Affairs and Islands Committee

Wednesday 24 January 2024

Session 6



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RURAL AFFAIRS AND ISLANDS COMMITTEE

2nd Meeting 2024, Session 6

CONVENER

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

DEPUTY CONVENER

*Beatrice Wishart (Shetland Islands) (LD)

COMMITTEE MEMBERS

*Karen Adam (Banffshire and Buchan Coast) (SNP)

*Alasdair Allan (Na h-Eileanan an Iar) (SNP)

*Ariane Burgess (Highlands and Islands) (Green)

*Jim Fairlie (Perthshire South and Kinross-shire) (SNP)

*Kate Forbes (Skye, Lochaber and Badenoch) (SNP)

*Rhoda Grant (Highlands and Islands) (Lab)

*Rachael Hamilton (Etrick, Roxburgh and Berwickshire) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Gillian Martin (Minister for Energy and the Environment)

Andrew Voas (Scottish Government)

CLERK TO THE COMMITTEE

Emma Johnston

LOCATION

The Mary Fairfax Somerville Room (CR2)

Scottish Parliament

Rural Affairs and Islands Committee

Wednesday 24 January 2024

[The Convener opened the meeting at 09:06]

Subordinate Legislation

Code of Practice for the Welfare of Pigs (Revocation) (Scotland) Notice 2023 [Draft]

Welfare of Farmed Animals (Scotland) Amendment Regulations 2024 [Draft]

The Convener (Finlay Carson): Good morning, and welcome to the second meeting of the Rural Affairs and Islands Committee in 2024. Before we begin, I ask anyone who is using an electronic device to please switch it to silent.

Members will note that we have a revised agenda for today's meeting and that our stage 2 consideration of the Wildlife Management and Muirburn (Scotland) Bill has been rescheduled.

Before we move on to consideration of our first agenda item, it might be helpful if I set out the reasons why our stage 2 considerations have been rescheduled. Due to the weather yesterday evening—and this morning—some committee members have not been able to attend today's meeting in person. Although the Covid pandemic showed us that we can conduct parliamentary business online at stage 2—with debates, interventions and votes on potentially every amendment being managed with members attending online—it is challenging to manage that and we are vulnerable to a loss of connection or to delays.

Given the bill team's confirmation to the clerks that there would be no difficulties as a result of postponing stage 2 considerations by two weeks, I took the decision to reschedule to a date on which we could all be in the room together and on which we will be able to hold stage 2 without the challenges and risks.

Alasdair Allan (Na h-Eileanan an Iar) (SNP): Thank you, convener. I appreciate the arguments that you made. However, the postponement came as a surprise to me. I appreciate that it is not the fault of people who cannot make it here because of the weather, but we have conducted meetings of the committee online or partly online, and we have had hybrid meetings in the past. We did that throughout the Covid pandemic, and other

committees have handled stage 2 proceedings in that way.

Although the decision is ultimately at your discretion, committee members did not know about it. I want to register my curiosity about what we will do in the future if one or two people cannot make it, and I would like to know how we can avoid a situation in which we delay legislative proceedings indefinitely.

The Convener: Are there any other comments?

Jim Fairlie (Perthshire South and Kinross-shire) (SNP): Everybody has done a huge amount of work to prepare for the stage 2 consideration, and the information about its postponement was dropped very late yesterday afternoon. I understand that it is the convener's prerogative to change the agenda, but it would be very nice to have no surprises. We have had a discussion before about having no surprises and no very late changes to the agenda.

I accept that there are adverse weather conditions. However, I don't know about other members, but I have certainly had an awful lot of stakeholder engagement since the decision was made that stage 2 proceedings would be suspended. Stakeholders have asked why it is happening, and there is a great deal of disgruntlement among them. If you are planning to make a big decision such as to reschedule a stage 2 meeting, it would be useful for us all if we could we at least get some indication that a conversation is going on.

I don't know about everybody else, but I did a lot of work to get myself prepared for this meeting, and the no-surprises principle is quite a good one for the convener to have, in the interests of the rest of the committee members.

The Convener: I am pleased that members recognise that the convener has no control over the weather, but I will reiterate the reasons for postponing stage 2. Unfortunately, trying to give advance notice is difficult when we are dealing with weather conditions, but it is my wish for proceedings of the committee to be as effective as possible and to allow as much informed debate as possible. Delaying stage 2 by two weeks, which has been done in order to allow effective proceedings, will have no adverse impact on our future work programme. I very much appreciate the work that has been done by stakeholders, but that work will be equally valid in two weeks' time, when we hold the stage 2 proceedings. I look forward to Wednesday 7 February, when we will undertake our stage 2 consideration.

Alasdair Allan: I appreciate that you will not like my saying this, but I suggest that we move to a vote on whether we should revert to the original agenda.

The Convener: That is not competent, but thank you.

Our first agenda item is consideration of the Code of Practice for the Welfare of Pigs (Revocation) (Scotland) Notice 2023, which is a document that is subject to parliamentary approval under the affirmative procedure.

I welcome Gillian Martin, Minister for Energy and the Environment, and the Scottish Government officials Andrew Voas, veterinary head of animal welfare, and Grant McLarty, solicitor. I invite the minister to make an opening statement.

The Minister for Energy and the Environment (Gillian Martin): The purpose of the draft Welfare of Farmed Animals (Scotland) Amendment Regulations 2024 is to amend the Welfare of Farmed Animals (Scotland) Regulations 2010 to put a statutory duty on persons who are responsible for looking after farmed pigs to be acquainted with our new guidance for the welfare of pigs. Among other things, the 2010 regulations require that persons who are responsible for farmed animals be acquainted with any relevant animal welfare guidance and have access to that guidance while attending to such animals. Non-compliance with those requirements is an offence.

Each time a new guidance document is published or revised, reference to that new document must be added to the definition of animal welfare guidance in the 2010 regulations. The draft regulations before the committee do just that. The new guidance for the welfare of pigs was published in November last year. The purpose of the draft regulations is simply to add the new pigs guidance to the definition of animal welfare guidance in the 2010 regulations. The purpose of the revocation notice that is being considered today is simply to revoke the existing but outdated code of practice for the welfare of pigs.

The combined effect of the notice and the regulations will be that the old pigs code of practice will no longer be in force and that the requirements that had been in force in relation to that code will now apply in relation to the new pigs guidance.

I am happy to take any questions that members have.

The Convener: I will kick off with the first question. This is the third such change that has been made from a code of practice to guidance. Where have similar changes been applied? Why has there been a general move from codes of practice to guidance?

Gillian Martin: Two sets of guidance notes—those on the welfare of meat chickens and those on the welfare of laying hens—have been part of

the same process. The committee will have had a letter from me that set out the reasons for the change. We have moved from a code of practice to guidance because guidance can be published, revised and updated very quickly. As you will appreciate, when it comes to animal welfare issues—especially those to do with farmed animals—it is quite a fast-moving scene. We can receive recommendations from bodies such as the Scottish Animal Welfare Commission that we think need to be applied.

The guidance in question is available for people who work with farmed animals so that they can ensure that the welfare of those animals is as good as it can be. The accommodation of such animals and the conditions in which they must be housed are examples of what the guidance covers.

The Convener: You say that one of the benefits is that new guidance can be brought in very quickly. That would suggest that parts of the process for developing and putting in place such guidance are different from the process for a code of practice. What parts of the process for a code of practice have been dropped in the move to guidance? What safeguards, checks, consultation or whatever have been removed to allow the process to take place more quickly?

09:15

Gillian Martin: The fact is that we still consult with stakeholders ahead of compiling the guidance. Working with stakeholders, animal welfare agencies and the farming community on what should be in the guidance is very much a consultative process that officials undertake.

I suppose that the difference between a code and a guidance document is that, although we give the committee notice of a guidance document—you would have had sight of it in November—it does not have to undergo parliamentary scrutiny in order to be applied. As you will appreciate, we are under a great deal of pressure in terms of timing and the work programmes of committees. We also want to be able to be fleet of foot when it comes to updating or changing guidance.

The instrument allows us to swap out an outdated document for a new, updated one, and to do that reasonably quickly, so that people have the right information when they are farming their animals.

The Convener: In effect, the process is speeded up by removing the Parliament's ability to scrutinise it. Is it a good thing that you are removing parliamentary scrutiny?

Gillian Martin: My predecessor, Màiri McAllan, took forward this change when she was minister in this portfolio. She set out the rationale for the change in policy to the committee in terms of changing from a code to guidance.

The reason for it is to make the process more streamlined and quicker. It takes time for codes to go through a process that requires parliamentary scrutiny and there might be situations in which pressing updates concerning animal welfare need to be applied quite quickly, so that decision was made. With the guidance, we are not going to remove any of the consultation or work with stakeholders.

I imagine, convener, that you have looked at the guidance that we are talking about. It is very straightforward. It is advice on how animals—pigs, in this instance—should be treated, on the conditions that they should be kept in and on everything else in relation to their welfare that should be adhered to. It is not so much a change in policy, because the policy is in the Animal Health and Welfare (Scotland) Act 2006 and the Welfare of Farmed Animals (Scotland) Regulations 2010. There is no change in policy—it is really just a change to guidance.

The Convener: On that basis, what is concerning is that it would, in effect, look like the Government is taking more power and giving the Parliament less. The guidance could be used for enforcement purposes in a similar way to codes of practice, which suggests that the difference with a change from codes of practice to guidance will simply be that all parliamentary scrutiny will be removed, which in effect gives the Government more power.

Gillian Martin: I am not entirely sure that it is a case of power. We are talking about guidance here, not about policy change.

The Convener: It does say that it can be used for enforcement.

Gillian Martin: I think that even the codes gave enforcement agencies an idea of the standards that were required for the welfare of whichever animal. The guidance is not binding—the binding aspect is that there should be access to the guidance.

To be quite honest, the guidance and the codes are very similar. England and Wales were also looking at a change like this. The Department for Environment, Food and Rural Affairs was proposing to issue guidance that was jointly owned by Government and industry. We decided that our guidance would be Government led and Government owned, which means that we can ensure that the whole range of stakeholders' views is taken into account.

Stakeholders are broadly content with the approach. They were content with the same approach for laying hens and meat chickens. We are putting forward today not so much a policy change from code to guidance—my predecessor did that previously at the committee—but a technical instrument that swaps out the pigs code of practice for guidance on pig welfare.

Jim Fairlie: I am curious, minister. You are talking about how you consult with stakeholders. Is that a requirement, or is it just something that the Government does as a matter of course?

Gillian Martin: There is no requirement for us to consult, but we do not operate in that way. It is not in our interests or the interests of the sector for the Government to act to produce guidance in a vacuum. Stakeholders have to be invested in guidance and it has to be produced in collaboration with them so that it lands properly and so that it can be used and trusted. That is the approach that we will always take to anything like this that we produce. There is nothing that compels us to do it, but it is good practice.

Jim Fairlie: That is the point that I was trying to get to. This is a collaborative approach. The industry is very much behind it and it can see the value of it.

Gillian Martin: Yes.

The Convener: I have a supplementary question. Were there formal obligations or requirements for consultation under the code of practice?

Gillian Martin: I will pass that question to Andrew Voas, because he was involved in the code of practice.

Andrew Voas (Scottish Government): There is a formal obligation to consult on a code of practice and there is no formal obligation to consult on guidance. However, as the minister said, we did consult extensively with the industry and had detailed discussions with a large number of interested parties when we were preparing the guidance.

The Convener: Just to be clear, does the revocation of the code of practice and the introduction of guidance remove the requirement for consultation?

Gillian Martin: Yes, but it might be worth my going over what I imagine Ms McAllan would have said to the committee at the time. The move from welfare codes of practice to welfare guidance documents was discussed in advance with all the key stakeholders. Before the publication of that first guidance document, the then minister asked officials to discuss the change further with animal welfare organisations and the sector, and they were content with the move. Officials then had

further discussions off the back of that with OneKind and Compassion in World Farming, both of which confirmed that they did not raise any objections and that they had consulted with the sector.

Since the guidance documents have been put in place for laying hens and meat chickens, there has been absolutely no pushback on their being guidance documents rather than codes of practice.

The Convener: I suppose that what I wanted to get on the record was that the revocation of the code of practice removes the requirement for formal consultation, which you have just confirmed.

Gillian Martin: Yes, but consultation still happens. The decision to change from codes to guidance has already happened. Today, we are just adding another document to the guidance and removing the outdated code.

Rhoda Grant (Highlands and Islands) (Lab): No concerns about that have been expressed to us, but it could be that, when the guidance is changed in the future, we do get concerns about it, especially when there is no consultation with the committee. What would we do in that case? Would the minister appear in front of the committee to discuss those concerns?

Gillian Martin: I will always appear before the committee if members have concerns about anything in my portfolio. I am not going to sit here and say that I would come to the committee only if there were a formal reason to do so. If you have concerns about guidance, I will come. I hope, however, that that will not happen and I do not think that it will happen because future changes to the guidance will be made in consultation with all stakeholders well in advance of its being changed or published.

Rhoda Grant: It is good to have that backstop.

The Convener: As there are no more questions, we will move on to formal consideration of motion S6M-11748 to approve the notice. I invite the minister to move the motion.

Gillian Martin: I move that the Rural Affairs and Islands Committee recommends that the Welfare of Farmed Animals (Scotland) Amendment Regulations 2024 be approved

The Convener: Does any member wish to debate the motion?

Gillian Martin: Convener, I have read out the wrong motion. I will revise what I said. I apologise for that mistake

Motion moved,

That the Rural Affairs and Islands Committee recommends that the Code of Practice for the Welfare of Pigs (Revocation) (Scotland) Notice 2023 be approved.

Motion agreed to.

The Convener: Is the committee content to delegate authority to me to sign off a report on our deliberations on the notice?

Members indicated agreement.

The Convener: That completes consideration of the notice. We now turn to consideration of the Welfare of Farmed Animals (Scotland) Amendment Regulations 2024.

Gillian Martin, the Minister for Energy and the Environment, is still with us, along with her officials Andrew Voas and Grant McLarty. I invite the minister to make an opening statement.

Gillian Martin: I do not have a further opening statement to make. I think that I included everything in my original statement.

The Convener: Thank you. As members do not have any questions, we move to formal consideration of motion S6M-11549.

Motion moved,

That the Rural Affairs and Islands Committee recommends that the Welfare of Farmed Animals (Scotland) Amendment Regulations 2024 be approved.

Motion agreed to.

The Convener: Is the committee content to delegate authority to me to sign off a report on our deliberations on the affirmative instrument?

Members indicated agreement.

The Convener: That concludes consideration of the affirmative instrument and our business for today.

Meeting closed at 09:26.

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