

**ROBIN RIGG OFFSHORE WIND FARM
(NAVIGATION AND FISHING) (SCOTLAND)
BILL COMMITTEE**

Wednesday 26 March 2003
(Afternoon)

Session 1

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THE CONVENER

*Mr Tom McCabe (Hamilton South) (Lab)

THE DEPUTY CONVENER

*Colin Campbell (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Mr John Home Robertson (East Lothian) (Lab)

*Mr Jamie McGrigor (Highlands and Islands) (Con)

*Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD)

*attended

CLERK TO THE COMMITTEE

David Cullum

SENIOR ASSISTANT CLERK

Alison Campbell

ASSISTANT CLERK

Zoé Dean

LOCATION

Committee Room 4

Scottish Parliament

Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill Committee

Wednesday 26 March 2003

(Afternoon)

[THE CONVENER *opened the meeting at 13:22*]

Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill: Consideration Stage

The Convener (Mr Tom McCabe): Good afternoon and welcome to the consideration stage of the Robin Rigg Offshore Wind Farm (Navigation and Fishing) (Scotland) Bill. I apologise for being a few minutes late—I was involved with a constituency matter. We are all a bit pressed at the moment because of the way in which times have been changed and meetings have been squeezed into suspensions of meetings of Parliament. I thank members for making themselves available today, which has been a problem for us all. If any members of the press and public are present, I welcome them.

Colin Campbell and Jamie McGrigor, who, for good reasons, were not able to be present with us at our previous meeting, are present today. However, under the rules of the Parliament, to allow them to take part in today's proceedings, we had to obtain the agreement of the promoters, objectors and witnesses. Thankfully, our staff have worked hard during the past few days to obtain that agreement, which means that those members can take part in today's proceedings.

Today's agenda item is the detailed consideration stage of the bill. The stage is broadly similar to the stage 2 proceedings of a public bill; the difference is that, in private bill proceedings, only the members of the committee may lodge amendments. Because the rules of the Parliament do not allow the promoters to lodge amendments, Mike Rumbles has kindly agreed to lodge a number of amendments to the bill on their behalf. He will speak to the amendments, but it is important to stress that, when it comes to a vote, he is under no obligation to vote for them. That situation is rather strange, but members are placed in it as a result of the rules of the Parliament. It is important to explain the situation to avoid any criticism that might be visited on

members because of a misunderstanding of the rules.

Members have been supplied with a series of papers. The amendments have been grouped to facilitate debate and they will be called in turn from the marshalled list. As normal in considering legislation, we cannot move backwards; when we have finished consideration of amendments, there is no facility to return to them.

As members will be aware, if they intend to oppose agreement to a section, they must do so by moving an appropriate amendment. Given that no such amendment has been lodged, any member who wishes to oppose a question to agree to a section must do so by moving a manuscript amendment. As convener, it would be my decision whether to accept such an amendment.

Section 1—Authority for works obstructing navigation and fishing

The Convener: The first group of amendments covers issues regarding turbine height and turbine clearance. Amendment 1 is grouped with amendments 2, 16 and 17.

Mr Mike Rumbles (West Aberdeenshire and Kincardine) (LD): Amendments 1, 2 and 16 were lodged by the promoters to address construction issues that have arisen since the bill was introduced. The amendments are intended to give greater flexibility in the detailed design of the project and to take into account the fact that the wind turbine manufacturing industry is making rapid advances in the development of offshore wind turbines.

Section 1(1)(a) describes the maximum and minimum dimensions of the wind turbines. Amendment 1 would allow a lower minimum height of 62m above the level of high water for the turbine towers. Amendment 2 would allow the maximum diameter for the rotor blades of the turbines to be increased to 104m.

The maximum and minimum dimensions allowed for in section 1(1)(a) are subject to section 1(2), which specifies a minimum blade clearance between the lowest point of the rotating blades and the level of high water. Amendment 16 would reduce the minimum clearance between the blades and the level of high water, which at present under section 1(2) is a distance of 25m. The amendment would reduce the minimum to 18m.

Members will recollect hearing detailed evidence on the subject during the preliminary and consideration stages. As a result of that evidence, the committee agreed in our first report of 2003 to support the changes suggested in amendments 1, 2 and 16. However, that support was conditional

on an active management system being put in place to allow the blades to be stopped quickly in an emergency. John Home Robertson will shortly speak to the committee's amendment on an active management system.

I move amendment 1.

The Convener: As Mike Rumbles suggested, John Home Robertson has agreed to lodge the amendments that the committee wishes to make to the bill as a result of our considerations.

Mr John Home Robertson (East Lothian) (Lab): As you said, convener, amendment 17 will implement decisions that the committee has already made. It will impose on the promoter a requirement to have an active management system in operation at all times at which the turbines are working. To operate the turbines without the AMS functioning will be a criminal offence.

We have heard evidence from the promoters, local interests and the Maritime and Coastguard Agency on the requirements for an AMS. We also heard evidence about the communication aspects from an expert witness, who, among other things, gave us useful information about global positioning systems and very high frequency radio communications.

13:30

Amendment 16, which seeks to lower the minimum clearance, was to be allowed only on condition that the broad details of the AMS were included in the bill. Amendment 17, which I have lodged on behalf of the committee, does just that and requires the promoters to consult the relevant emergency services before implementation.

Members will remember that Mr Cubbin of the MCA gave evidence on testing and operational issues. One might expect the coastguard to be named in amendment 17. However, we have not done so because the Scottish Parliament has no competence over that issue. As the witness told us at the meeting in Dumfries, matters concerning the coastguard are reserved to Westminster and any attempt by the Scottish Parliament to confer functions on the coastguard would be fatally flawed.

As a result, amendment 17 simply requires the promoters to consult the relevant emergency services, which might include the police, the ambulance service and the fire brigade, in advance of implementation. We expect the promoters to take both the spirit and the letter of the amendment on board and to seek to co-operate with those services both before the wind farm becomes operational and during its operational life.

Amendment 1 agreed to.

Amendment 2 moved—[Mr Mike Rumbles]—and agreed to.

The Convener: Amendment 3 is grouped with amendments 4 and 6.

Mr Rumbles: Amendments 3, 4 and 6 have been proposed by the promoters to allow an increase in the space that is allocated to the electrical substation and to provide an option to fix the anemometry mast to the substation. At present, the bill envisages that the anemometry mast would be an independent structure with its own piled foundations.

Like previous amendments, these amendments would provide the promoters with greater flexibility in the wind farm's design and address proposals that arise from the initial tendering process. Amendment 3 would increase the dimensions of the electrical substation and helicopter landing deck from 30m by 30m to 30m by 50m. Amendment 4 would provide for the option to relocate the mast to the substation.

Amendment 6 is consequential to amendments 3 and 4 and specifies an alternative location for the substation in the same location as the mast. Members will note that the reference points in the amendment are the same as those for the anemometry mast, as found in paragraph 3 of schedule 1.

I move amendment 3.

Amendment 3 agreed to.

Amendment 4 moved—[Mr Mike Rumbles]—and agreed to.

The Convener: Amendment 5 is grouped with amendments 7 to 11.

Mr Rumbles: Amendments 5, 7, 8, 9, 10 and 11 all deal with cable connections and routes within the wind farm and to the Scottish border.

The promoters now propose that, instead of having only one cable, the connection should be made by two cables that are laid approximately 25m apart along the same route. Amendment 5 would add flexibility to the design of the wind farm; for the purposes of applications elsewhere for consents to generate electricity, it recognises that the bill covers two separate leases. Accordingly, the amendment seeks to amend the description in section 1(1)(e) to "two armoured cables".

Amendment 7 would reduce greatly the size of the schedule and provide the promoters with increased flexibility to allow the cables to be laid in direct lines between any of the turbines and between the turbines that immediately adjoin the substation. The cables would still be buried.

Amendments 10 and 11 are consequential to amendment 7. Section 2 provides the promoter with the power to deviate from specified locations when constructing and maintaining the wind farm. At the moment, the power applies to all the works as well as the cables. Given the flexibility proposed in amendment 7, amendment 10 would restrict the power to deviate to the turbines, the electrical substation or the anemometry mast and, along with amendment 11, would remove reference to the cables. Amendment 11 would reinstate the figure of 50m as the limit of deviation allowed for the structures.

Amendment 9 is a consequential amendment that follows on from the possible relocation of the substation. It seeks to allow for an alternative route for the cable connection from the wind farm to the Scottish border. Any alteration to the cable route would also need approval from the Scottish ministers under section 34 of the Coast Protection Act 1949.

Amendment 8 is a minor consequential amendment to paragraph 5 of schedule 1.

I move amendment 5.

The Convener: Do members have any comments?

Mr Home Robertson: I am sorry, convener—it is a mistake to listen to debates. If we are being asked to agree to the laying of extra cables, I seek an assurance that fishing interests have been duly consulted about any increase in the number of cables that will be strewn on the sea bed of the Solway firth.

The Convener: Fishermen are not allowed to fish within the wind farm.

Mr Home Robertson: I am talking about the extra main cable to the landfall.

The Convener: The cables from the farm to the substation will be buried.

Amendment 5 agreed to.

Amendment 16 moved—[Mr Mike Rumbles]—and agreed to.

Section 1, as amended, agreed to.

Schedule 1

LOCATION OF THE REGULATED WORKS

Amendments 6 to 9 moved—[Mr Mike Rumbles]—and agreed to.

Schedule 1, as amended, agreed to.

Section 2—Power to deviate from specified locations

Amendments 10 and 11 moved—[Mr Mike Rumbles]—and agreed to.

Section 2, as amended, agreed to.

Sections 3 and 4 agreed to.

Section 5—Exclusion zones for navigation, trawling and anchoring

The Convener: Amendment 12 is grouped with amendment 13.

Mr Rumbles: Amendments 12 and 13 are minor amendments concerned with changing the word “shipping” to “mariners” in sections 5(2)(b) and 5(3)(b) respectively. The Scottish Executive indicated its concern to the promoters that the word “shipping” might be interpreted as being applicable only to commercial shipping. It suggested that “mariners” might be understood as a wider term. The amendments also reflect the fact that notification will in practice be by means of notices to mariners and users of the Solway firth.

I move amendment 12.

Mr Jamie McGrigor (Highlands and Islands) (Con): Is a jet-skier a mariner?

The Convener: Yes, definitely. If he is getting soaked in the water, he is a mariner.

Mr Rumbles: I was going to say in my summing up that jet-skiers would be considered mariners.

Colin Campbell (West of Scotland) (SNP): However much they are disapproved of by the yachting fraternity.

Amendment 12 agreed to.

Amendment 13 moved—[Mr Mike Rumbles]—and agreed to.

Section 5, as amended, agreed to.

Schedules 2 and 3 agreed to.

After section 5

Amendment 17 moved—[Mr John Home Robertson]—and agreed to.

The Convener: Amendment 18 is in a group on its own.

Mr Home Robertson: I lodged amendment 18 in respect of the committee’s decision to address the Solway Yacht Club’s concern about the lack of local consultation over lighting, marking and notification.

Amendment 18 introduces a new section, entitled “Local consultation”, after section 5, to ensure that local fishing and sailing interests are

given an opportunity to comment on proposals on lighting and marking of the works and on the method of notifying mariners of the commencement or termination of exclusion zones. The amendment requires the promoter to consult representatives of local fishing interests and recreational boating interests before submitting any proposals to the Commissioners of Northern Lighthouses or the Scottish ministers.

I move amendment 18

Amendment 18 agreed to.

The Convener: Amendment 19 is in a group on its own.

Mr Home Robertson: As drafted, the bill makes no provision for the removal of all the obstructions to navigation and fishing at the end of the operational life of the wind farm. The promoters have indicated that they are under an obligation to make provision for decommissioning as part of their lease from the Crown Estates.

The committee considered concerns raised by two of the objectors, the Royal Yachting Association and the Solway Yacht Club. The Royal Yachting Association raised specific concerns.

The committee agreed in its first report of 2003 that decommissioning provisions must be in place in advance of the powers granted to the promoters by the legislation coming into effect and that arrangements must be, as far as is possible, sufficient to cover all eventualities.

The amendment, which I have lodged to reflect the committee's decision, makes provision in the bill to require the promoters to insure against the costs of decommissioning the wind farm. The new section makes it clear that the provisions of the legislation regarding the restriction on navigation and fishing rights apply only once the insurance is in place. The restrictions on rights continue to subsist only for as long as the insurance remains in place. Indeed, if the insurance were to lapse, anyone could sail around in the areas that the promoters wish to be in the exclusion zones.

The insurance must be in a form that is acceptable to the Scottish ministers and any provision made for meeting the costs of decommissioning must, by virtue of proposed subsection (2), be in the form of a third-party bond or third-party financial instrument. That is to ensure that any liquidation or insolvency of the promoter or its parent company does not give rise to costs falling on the public purse.

I am sure that the Scottish ministers will take account of the amendment when approving the form of the insurance. They will want to ensure not only that the initial amount is adequate, but that some sort of mechanism is in place to ensure that

the cover continues to be adequate throughout the lifetime of the wind farm.

I move amendment 19.

13:45

Mr Rumbles: It is important that we get the decommissioning provisions right, as we are dealing with the beginnings of an industry. It is to the credit of the committee that we have all agreed that it is important that the bill should deal with this subject. People might say that we are taking a belt-and-braces approach, but I think that that is the right way to proceed in these circumstances and that requiring a bond to be put in place, which must be cleared by the Scottish ministers, is the correct mechanism.

Mr Home Robertson: I strongly agree with that point. It would not be sufficient to rely on another agency. We are introducing legislation that will impinge on navigation and fishing rights and it is incumbent on the Scottish Parliament to ensure that those rights are safeguarded for the future.

Colin Campbell: We have set a good precedent.

Amendment 19 agreed to.

Section 6 agreed to.

Section 7—Interpretation

The Convener: Amendment 14 is grouped with amendment 15.

Mr Rumbles: Amendments 14 and 15 introduce new definitions into the bill, in each case for the avoidance of doubt. Amendment 14 introduces a definition of "Scottish waters". The definition is consistent with the definition of Scotland in section 126 of the Scotland Act 1998, which is that Scotland

"includes so much of the internal waters and territorial sea of the United Kingdom as are adjacent to Scotland".

Amendment 14 also helps to make it clear that the bill does not include in its scope any waters that fall outside the definition of Scotland in the 1998 act.

Amendment 15 introduces the definition of vessels and will help to avoid future argument as to whether a floating object can be described as a vessel—that might be useful in relation to the question that Jamie McGrigor asked earlier. The definition given is a wide one in common usage and follows the wording used in applications made under the Transport and Works Act 1992. The committee will note that the bill makes it clear that personal watercraft such as jet-skis will be covered by the exclusion zones.

I move amendment 14.

Mr McGrigor: Does the amendment relate to wind surfers and so on as well?

The Convener: I think so. Do we require further clarification?

Mr Rumbles: The amendment says that a vessel is

“a ship, boat, raft or water craft of any description”.

Amendment 14 agreed to.

Amendment 15 moved—[Mr Mike Rumbles]—and agreed to.

Section 7, as amended, agreed to.

Section 8 agreed to.

Long title agreed to.

The Convener: That concludes the consideration stage of the bill. I thank members of the committee for the time and effort that they have put into the consideration of the bill. I know that it has been extremely difficult to arrange your diaries at times, but I appreciate the effort that you have made to accommodate this piece of work.

On behalf of all the members of the committee, I express our thanks to the staff who have serviced us. Their work has been extremely professional. There have been a number of occasions when their efforts—speaking to the objectors and the promoters and doing a lot of work behind the scenes—have saved committee members a great deal of work and inconvenience. I am sure that they enjoyed the process every bit as much as we did.

Meeting closed at 13:49.

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