

# **SALMON AND FRESHWATER FISHERIES (CONSOLIDATION) (SCOTLAND) BILL COMMITTEE**

Tuesday 25 February 2003  
*(Afternoon)*

Session 1

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## **SALMON AND FRESHWATER FISHERIES (CONSOLIDATION) (SCOTLAND) BILL COMMITTEE**

**5<sup>th</sup> Meeting 2003, Session 1**

### **CONVENER**

\*Murdo Fraser (Mid Scotland and Fife) (Con)

### **DEPUTY CONVENER**

\*Gordon Jackson (Glasgow Govan) (Lab)

### **COMMITTEE MEMBERS**

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab)

\*Mr Duncan Hamilton (Highlands and Islands) (SNP)

\*John Farquhar Munro (Ross, Skye and Inverness West) (LD)

\*attended

### **THE FOLLOWING ALSO ATTENDED :**

Iain Jamieson (Adviser)

Lord Advocate (Colin Boyd)

### **WITNESSES**

### **CLERK TO THE COMMITTEE**

Tracey Haw e

### **SENIOR ASSISTANT CLERK**

Mark Brough

### **ASSISTANT CLERK**

Catherine Johnstone

### **LOCATION**

Committee Room 4



## Scottish Parliament

### Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill Committee

*Tuesday 25 February 2003*

*(Afternoon)*

[THE CONVENER *opened the meeting at 14:31*]

### Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill: Stage 2

**The Convener (Murdo Fraser):** Good afternoon, ladies and gentlemen, and welcome to the meeting. I have received apologies from Brian Fitzpatrick, who is at the Enterprise and Lifelong Learning Committee.

Today's agenda item is discussion of the Salmon and Freshwater Fisheries (Consolidation) (Scotland) Bill at stage 2. I welcome the Lord Advocate, Colin Boyd, who will with his officials steer us through stage 2 from the Executive's perspective.

As the committee has not dealt with a bill at stage 2 before, I shall explain how we will proceed. Members should have before them a copy of the bill as introduced, the marshalled list of amendments, which was published yesterday, and the groupings of amendments. If any member does not have those documents, copies can be supplied. The amendments have been grouped to facilitate debate on my authority, but the running order is set by the rules of precedence covering the marshalled list. Members should remember to move between the two papers. All amendments will be called in strict order from the marshalled list. The target that has been set for today is to complete stage 2 consideration; I hope that we will achieve that.

There will be one debate on each group of amendments. I shall call the Lord Advocate to speak to and move the first amendment in each group and to speak to all the amendments in each group. Members who do not have amendments lodged in their name, but who wish to speak, should indicate their wish to do so by catching my attention. If other members then make substantive points, the Lord Advocate will be given the opportunity to comment when winding up. Only committee members may vote.

Unless the Lord Advocate is moving the first amendment in the group, I ask him not to move

any other amendment—their time will come. I shall call him to move amendments at the appropriate time. If the Lord Advocate does not wish to move an amendment, when he is called he should simply say, "Not moved". Please note that, in that case, any other MSP may move the amendment. If no one moves the amendment, I shall immediately call the next amendment on the marshalled list.

Following the debate on each group, I shall check formally whether the Lord Advocate wants to press to a decision or withdraw the lead amendment. If he wants to press the amendment, I shall put the question on the first amendment, and if any member disagrees we shall proceed immediately to a division by show of hands. It is important that members keep their hands clearly raised until the clerk has fully recorded the vote. If the Lord Advocate wants to withdraw his amendment after it has been moved, he must seek the agreement of the committee to do so. If any committee member objects, the amendment will be voted on immediately; there is no division on whether to withdraw an amendment.

After we have debated the amendments, the committee must decide whether to agree to each section of the bill. A short debate at that point may be allowed, but it will be useful to discuss points that have not been raised by amendments. I say at the outset that if the situation arises in which I am called on to use my casting vote, I shall vote in favour of the status quo. By common agreement, the status quo in such situations is the bill as introduced; therefore, I would use my casting vote against any amendment.

#### Section 1—Methods of fishing: salmon

**The Convener:** We proceed to consideration of the first group of amendments. The amendments that are before us follow discussions between the Lord Advocate's team and our legal adviser. We do not necessarily expect the Lord Advocate to speak to each amendment at great length. We would be happy if he simply moved the amendments, but it is up to him whether to speak to and to move them or merely to move them.

Amendment 1 is grouped with amendments 3 and 4.

**The Lord Advocate (Colin Boyd):** Before I speak to amendment 1, I would like to make one or two general points. From what I have read in the *Official Report*, my knowledge of salmon fishing is probably as great as that of Gordon Jackson, but consolidation bills are matters of legislative housekeeping. If there has been a series of acts on a particular topic over a number of years, it is common sense to group them together and consolidate them. The law will not be

changed, except where the Scottish Law Commission has suggested amendments that are necessary for the purpose of securing satisfactory consolidation. As the matter is one of legislative housekeeping, the Executive has decided that the law officers should have the responsibility for promoting such bills.

I pay tribute to the Scottish Law Commission, which has produced a comprehensive and extremely valuable report on a complex and difficult area of law, and to the committee for its helpful consideration of the bill at stage 1. Obviously, there has been a great deal of co-operation between the Executive and the committee. In that context, I pay tribute to Patrick Layden—who is the legal secretary to the Lord Advocate and was responsible for drafting the bill—and to Iain Jamieson, who is the committee's legal adviser and whom I obviously know from a different context. He has made an immense contribution to devolution in general in Scotland and a particular contribution to the bill. The result is that the model of the first consolidation bill will be followed in future—I pay tribute to the committee for that.

I will deal briefly with amendment 1. Paragraph 48 of the Law Commission's report suggested that it would be appropriate to specify all the methods of fishing that were lawful, and to resolve the doubt that was left in the proviso to section 2(1) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951. In considering that recommendation, the committee carried out further analysis of the provision and asked for amendments to make it clear that the various methods of fishing that the Law Commission had identified should have been exercisable as at 10 May 1951. Amendments 1, 3 and 4 will achieve that result in relation to fishing by cruive and fishing by haaf net.

I move amendment 1.

*Amendment 1 agreed to.*

**The Convener:** Amendment 2 is grouped with amendments 68 to 70, 74 and 75.

**The Lord Advocate:** I do not think that I need to say anything more about amendment 2.

I move amendment 2.

*Amendment 2 agreed to.*

*Amendments 3 and 4 moved—[Lord Advocate]—and agreed to.*

*Section 1, as amended, agreed to.*

*Sections 2 and 3 agreed to.*

#### **Section 4—Meaning of “rod and line”**

**The Convener:** Amendment 5 is grouped with amendments 6, 7, 17 and 33.

**The Lord Advocate:** The committee declined to accept recommendation 14 of the Law Commission's report because it did not consider it appropriate to confer on the Scottish ministers a power to make regulations in relation to the definition of rod and line. This group of amendments will give effect to the committee's recommendations.

I move amendment 5.

*Amendment 5 agreed to.*

*Amendments 6 and 7 moved—[Lord Advocate]—and agreed to.*

*Section 4, as amended, agreed to.*

*Sections 5 to 7 agreed to.*

#### **Section 8—Taking of dead salmon or trout**

**The Convener:** Amendment 8 is grouped with amendments 9 to 13, 15, 16, 18, 35, 50 to 52 and 62.

**The Lord Advocate:** I move amendment 8.

*Amendment 8 agreed to.*

*Section 8, as amended, agreed to.*

#### **Section 9—Illegal possession of salmon or trout**

*Amendment 9 moved—[Lord Advocate]—and agreed to.*

*Section 9, as amended, agreed to.*

*Sections 10 to 13 agreed to.*

#### **Section 14—Fishing for salmon during annual close time**

*Amendments 10 and 11 moved—[Lord Advocate]—and agreed to.*

*Section 14, as amended, agreed to.*

*Sections 15 to 24 agreed to.*

#### **Section 25—Fixed engines in the Solway**

*Amendment 12 moved—[Lord Advocate]—and agreed to.*

*Section 25, as amended, agreed to.*

*Sections 26 to 30 agreed to.*

#### **Section 31—Salmon fishing: general regulations**

*Amendment 13 moved—[Lord Advocate]—and agreed to.*

**The Convener:** Amendment 14 is in a group on its own.

**The Lord Advocate:** Amendment 14 will give effect to the recommendation that was made by

the committee at paragraph 162 of its report. As drafted, the only limitation that would be imposed by section 31(5) on the Scottish ministers' power to amend section 13 is that regulations may not reduce the weekly close time to a period of less than 42 hours. The committee took the view that the original provision would also prevent the Scottish ministers from reducing the period within the weekly close time during which fishing for salmon by rod and line is permitted and the period during which all fishing for salmon is prohibited. Amendment 14 will give effect to that recommendation.

I move amendment 14.

*Amendment 14 agreed to.*

*Amendment 15 moved—[Lord Advocate]—and agreed to.*

*Section 31, as amended, agreed to.*

### **Section 32—Exception from regulations with respect to the construction of dams, lades and water wheels**

*Amendment 16 moved—[Lord Advocate]—and agreed to.*

*Section 32, as amended, agreed to.*

### **Section 33—Salmon fishing: regulations as to baits and lures**

*Amendments 17 and moved—[Lord Advocate]—and agreed to.*

*Section 33, as amended, agreed to.*

### **Section 34—Salmon fishery districts**

14:45

**The Convener:** Amendment 19 is grouped with amendments 20, 21, 66 and 71.

**The Lord Advocate:** The committee recommended that amendments should be lodged to amend section 34 so that it reflects more closely section 1(1) of the Salmon Act 1986. The first three amendments in the group will meet that aim, and the last two amendments will insert several new definitions in the interpretation section to take account of the committee's comments.

I move amendment 19.

*Amendment 19 agreed to.*

*Amendments 20 and 21 moved—[Lord Advocate]—and agreed to.*

*Section 34, as amended, agreed to.*

### **Section 35—Designation orders**

**The Convener:** Amendment 22 is in a group on its own.

**The Lord Advocate:** Section 35(2), which reproduces section 2(2) of the Salmon Act 1986, was discussed in detail by the committee with the draftsman on 21 January. In paragraphs 97 and 185 of its report, the committee suggested that the Executive should consider whether it would be possible simply to repeal section 2(2) of the 1986 act without re-enacting it. The Executive considers that that would be both possible and appropriate.

I move amendment 22.

*Amendment 22 agreed to.*

**The Convener:** Amendment 23 is grouped with amendments 26 and 67.

**The Lord Advocate:** Amendment 23 takes account of the committee's comments in paragraphs 185 and 186 of its report that in section 35(2) it would be appropriate for the reference to section 37 to be a reference to section 37(1).

Amendment 26 takes account of the committee's recommendation in paragraph 198 of its report that amendments should be lodged to reflect the terms of section 6(2) of the 1986 act more closely by referring to the dates and periods being determined under section 6(5) of the Salmon Fisheries (Scotland) Act 1862, or to the fact that the provision applies only where no designation order has been made in respect of a district.

Amendment 67 takes account of the committee's comments that amendments should be lodged to add definitions to section 70 of the bill. The amendment will insert definitions of annual close times for salmon and trout.

I move amendment 23.

*Amendment 23 agreed to.*

*Section 35, as amended, agreed to.*

### **Section 36—Estuary limits**

**The Convener:** Amendment 24 is grouped with amendments 25, 39 and 40.

**The Lord Advocate:** In paragraph 189 of the report, the committee noted that section 36(2)(a) simply referred to the estuary limits being fixed under

"any enactment prior to the coming into force of this act".

In paragraph 191, the committee took the view that section 36(2)(a) should restate section 7(1) of the 1986 act and refer to the estuary limits being fixed and defined under section 6 of the Salmon Fisheries (Scotland) Act 1862. The Executive accepts the committee's recommendation in paragraph 194 of its report and amendment 24 seeks to meet that.

In recommendation 15.3 in paragraph 94 of its report, the Scottish Law Commission recommended that the Scottish ministers should be given the power to adjust estuary limits to resolve doubts or to change the reference points by which the existing limits are identified. In paragraph 86 of its report, the committee rejected that recommendation, because it felt that it was not

“necessary in order to produce a satisfactory consolidation”.

The Executive accepted the committee's comment. Accordingly, amendment 25 seeks to adjust section 36(5) to ensure that the power under that provision for the Scottish ministers to make an estuary limits order will not include the power to make provision for removing doubt about the position of particular estuary limits.

Amendment 39 will make a minor change to paragraph 3 of schedule 1. In paragraph 235 of its report, the committee questioned whether the reference in paragraph 3 of schedule 1 to an estuary limits order

“in respect of a salmon fishery district”

was an error. The Executive accepted that the reference was an error and the amendment seeks to rectify the matter.

Amendment 40 will make a minor change to paragraph 3(A) of schedule 1 to make it clear that the reference to the district salmon fishery board in that provision is a reference to the board for the district in which the river concerned is situated.

I move amendment 24.

*Amendment 24 agreed to.*

*Amendment 25 moved—[Lord Advocate]—and agreed to.*

*Section 36, as amended, agreed to.*

### **Section 37—Annual close times**

*Amendment 26 moved—[Lord Advocate]—and agreed to.*

*Section 37, as amended, agreed to.*

### **Section 38—Salmon conservation orders**

**The Convener:** I call the Lord Advocate to speak to and move amendment 27, which is grouped with amendments 28 to 34, 36 to 38 and 41 to 46.

**The Lord Advocate:** This group of amendments deals with an issue on which the Executive was minded to disagree with the committee. However, on reflection, I have come to the view that it is better to continue with the existing position in relation to regulations than it would be to change

it. Any more material alteration can be made when the policy of the legislation is being considered.

I move amendment 27.

**The Convener:** We are obliged to you for considering that point.

*Amendment 27 agreed to.*

*Amendments 28 to 38 moved—[Lord Advocate]—and agreed to.*

*Section 38, as amended, agreed to.*

*Section 39 agreed to.*

### **Schedule 1**

DESIGNATION ORDERS, ESTUARY LIMITS ORDERS, ANNUAL CLOSE TIME ORDERS, SALMON CONSERVATION ORDERS AND BAITS AND LURES ORDERS

*Amendments 39 to 46 moved—[Lord Advocate]—and agreed to.*

*Schedule 1, as amended, agreed to.*

### **Section 40—Qualified proprietors and upper and lower proprietors**

**The Convener:** Amendment 47 is grouped with amendments 48 and 77.

**The Lord Advocate:** The amendments in the group give effect to the committee's comment in paragraph 216 of its report that section 40 should make specific reference to points of division of a river that have been fixed under the Salmon Fisheries (Scotland) Act 1862. Amendment 77 adds a definition of “qualified proprietor” to section 70.

I move amendment 47.

*Amendment 47 agreed to.*

*Amendment 48 moved—[Lord Advocate]—and agreed to.*

*Section 40, as amended, agreed to.*

### **Section 41—Where fewer than three proprietors in a salmon fishery district**

**The Convener:** Amendment 49 is in a group on its own.

15:00

**The Lord Advocate:** The Law Commission's 18<sup>th</sup> recommendation, which is at paragraph 106 of its report, was that section 12(1) of the Salmon Act 1986 should be amended so as to secure that, where there are fewer than three proprietors, any one of them can initiate the procedures to bring about the making of a designation order. In considering that recommendation, the committee took the view that it went further than was necessary to produce a satisfactory consolidation.



For that reason, the committee, in paragraph 101 of its report, rejected the commission's recommendation. The Executive indicated to the committee that it would lodge an amendment at stage 2, and amendment 49 fulfils that undertaking.

I move amendment 49.

*Amendment 49 agreed to.*

*Section 42 agreed to.*

### **Section 43—District salmon fishery boards**

*Amendment 50 moved—[Lord Advocate]—and agreed to.*

*Section 43, as amended, agreed to.*

### **Schedule 2**

#### **ELECTION AND CO-OPTION OF MEMBERS OF DISTRICT SALMON FISHERY BOARDS**

*Amendment 51 moved—[Lord Advocate]—and agreed to.*

*Schedule 2, as amended, agreed to.*

### **Section 44—Financial powers and duties of district salmon fishery boards**

*Amendment 52 moved—[Lord Advocate]—and agreed to.*

*Section 44, as amended, agreed to.*

*Sections 45 to 47 agreed to.*

### **Section 48—Increased availability of, and protection for, freshwater fishing**

**The Convener:** Amendment 53 is grouped with amendment 54.

**The Lord Advocate:** The committee commented in paragraph 88 of its report that there was no indication as to what was meant by the words “well-founded” in section 48(8). Amendment 53 rectifies that.

I move amendment 53.

*Amendment 53 agreed to.*

*Amendment 54 moved—[Lord Advocate]—and agreed to.*

*Section 48, as amended, agreed to.*

*Schedule 3 agreed to.*

### **Section 49—Appointment of wardens to secure compliance with protection order**

**The Convener:** Amendment 55 is grouped with amendment 76.

**The Lord Advocate:** Amendments 55 and 76 deal with a prescribed area. Amendment 76 inserts a definition of a prescribed area in section 70.

I move amendment 55.

*Amendment 55 agreed to.*

*Section 49, as amended, agreed to.*

*Sections 50 to 52 agreed to.*

### **Section 53—Powers of constables**

**The Convener:** Amendment 56 is grouped with amendments 57 to 61.

**The Lord Advocate:** Amendment 56 and the other amendments in the group have been prepared to give effect to the committee's recommendation in paragraphs 102 to 104 of its report. As noted in the report, the Executive accepts the various points made by the committee. The effect of the amendments is to clarify further the powers of water bailiffs appointed by district salmon fishery boards and to make it clear that the whole of section 55—not solely section 55(5)—is subject to section 56.

I move amendment 56.

*Amendment 56 agreed to.*

*Section 53, as amended, agreed to.*

*Section 54 agreed to.*

### **Section 55—Powers of water bailiffs**

*Amendments 57 to 61 moved—[Lord Advocate]—and agreed to.*

*Section 55, as amended, agreed to.*

*Sections 56 to 65 agreed to.*

### **Section 66—Application of Leases Act 1449**

*Amendment 62 moved—[Lord Advocate]—and agreed to.*

*Section 66, as amended, agreed to.*

*Section 67 agreed to.*

### **Section 68—Savings**

**The Convener:** Amendment 63 is in a group on its own.

**The Lord Advocate:** As was explained during the draftsman's evidence to the committee at stage 1, the purpose of section 68 was to make it clear that various provisions in earlier legislation will continue to apply. In view of the committee's preference for clear references in the bill to earlier legislation, it is no longer necessary to have a catch-all provision such as section 68, which can be dispensed with.

I move amendment 63.

*Amendment 63 agreed to.*

### Section 69—Orders and regulations

**The Convener:** Amendment 64 is grouped with amendment 65.

**The Lord Advocate:** I will move amendment 64, but I hope that the committee will allow me eventually to withdraw it.

When the Law Commission came to the view at paragraph 59 of its report that haaf nets were a legitimate method of fishing within the Solway, it recognised that the resolution of the doubt left by the proviso to section 2(1) of the Salmon and Freshwater Fisheries (Protection) (Scotland) Act 1951 would raise potential problems. It would be open to people who could establish a right to use a haaf net to seek to develop the use of such nets beyond previous practice. The solution to the problem was, in the Law Commission's view, to enable the Scottish ministers to regulate the manner in which haaf nets might be used.

The committee accepted the Law Commission's recommendation, but both the committee—at paragraph 69 of its stage 1 report—and the Subordinate Legislation Committee have recommended that the making of regulations in relation to the use of haaf nets should be subject to affirmative resolution procedure.

I recognise, of course, that this committee and the Subordinate Legislation Committee are rightly jealous of the power of the Parliament to scrutinise subordinate legislation, which can regulate the way in which a provision of primary legislation may be operated. However, the power to make regulations in relation to haaf nets is included in the bill in the same subsection that covers powers to regulate fishing by net and coble and by bag net, fly net or other stake net. The Westminster Parliament considered the matter of the procedure of both of those regulation-making powers when they were first enacted; in both cases, that Parliament came to the view that the negative resolution procedure would be sufficient.

I respectfully suggest to the committee that, in a consolidation, a power of this sort would be more appropriately placed, in procedural terms, on the same basis as other similar powers than in a different category all of its own. That is particularly the case in relation to regulations about haaf nets, because they will apply only to a relatively small part of Scottish fisheries and, within that part, only in particular locations where the user of the haaf net can establish that he had a right to do so as at 10 May 1951. Further, as with the other two powers, the power in relation to haaf nets will be exercised only after consultation.

Looking at section 69, it seems clear to me that there would be three forms of procedure. The first is negative resolution, under section 69(2) as drafted. The second is that, as specified in section

69(3), no resolution is required in some cases. The third would be a power, all on its own, in relation to haaf nets, which could be exercised only by affirmative resolution. If I may say so, that appears to be a rather odd result that ensues from the committee's determination on the matter.

In the circumstances, I suggest that the appropriate procedure in relation to haaf nets is the negative resolution procedure. As a result, I will seek the committee's leave to withdraw amendment 64 at the appropriate time.

I move amendment 64.

**The Convener:** I seek clarification as to whether you are not moving amendment 64 at this stage.

**The Lord Advocate:** I wish to withdraw the amendment. However, as I understand it, I have to move it formally to allow a debate on the issue. I will then withdraw it at the appropriate time.

**The Convener:** That is correct.

You have no idea what experts we have become in haaf net fishing over the past few weeks.

**Gordon Jackson (Glasgow Govan) (Lab):** I will disagree with the Lord Advocate, but only after considerable hesitation. I fully appreciate the point that the bill would be much tidier if the procedure that is being used for the rest of the regulations were used in this case. It makes sense not to have different kinds of regulations for different kinds of fishing.

However, the difficulty that we have faced is that another principle is involved. Indeed, those of us who sit on parliamentary committees are quite jealous of it. All the way through the Subordinate Legislation Committee and the other committees, we have tried over and over again to insist that, where such regulations are made, they should be laid before the Parliament under the affirmative procedure. I am extremely reluctant to allow a situation in which that would not happen. If regulations sit in isolation, the Subordinate Legislation Committee always recommends that they should be subject to the affirmative procedure. This committee would go along with such a decision. The balance is between insisting that we do not create a precedent by departing from such a principle and having a tidy or untidy piece of legislation.

It has to be said that the regulations will not be used very much—this is not a piece of legislation that will be used day and daily and which will take up a massive amount of the Lord Advocate's time in the future. Indeed, for all that is known to me, it has probably not taken up much of his time in the past. However, because the matter is not that important, I would not want to remove the principle that where such regulations are introduced in the Parliament, they should be subject to affirmative

procedure. If that means that we have different kinds of regulations in the one area, that is what should happen, simply on the principle that I would sooner get one thing right than none right. I am not all that interested in the argument that the regulations in this case should not be subject to affirmative procedure because the rest of the regulations are not subject to that procedure. As a result, I would be inclined to put down a marker and say that the regulations should be made under the affirmative procedure, even if that leads to untidiness in the way outlined by the Lord Advocate. [*Interruption.*]

**The Convener:** Someone's mobile phone is about to go off.

**Gordon Jackson:** It is mine, but it is not about to go off. It was shaking, but I have stopped it.

**The Convener:** Thank you. You were interfering with the audio system.

**Mr Duncan Hamilton (Highlands and Islands) (SNP):** I agree with Gordon Jackson's point. I would describe the matter as being necessarily untidy. There is no dispute about the need for the power; however, the question is how the power is used. Although I understand the frustration with the principle that the committees have set down, it is important that we send out the message that Gordon Jackson has outlined. As a result, I am minded to resist the withdrawal of amendment 64.

**The Convener:** Lord Advocate, do you wish to respond?

**The Lord Advocate:** No. I recognise the points that Gordon Jackson and Duncan Hamilton have made and I understand the principle behind them. I am happy to accept the committee's view on the matter.

**The Convener:** You were going to seek leave to withdraw amendment 64.

**The Lord Advocate:** I shall depart from that.

*Amendment 64 agreed to.*

*Amendment 65 moved—[Lord Advocate]—and agreed to.*

*Section 69, as amended, agreed to.*

### Section 70—Interpretation

*Amendments 66 to 71 moved—[Lord Advocate]—and agreed to.*

15:15

**The Convener:** Amendment 72 is grouped with amendments 73 and 78.

**The Lord Advocate:** I do not think that I need to say anything about the amendments.

I move amendment 72.

*Amendment 72 agreed to.*

*Amendments 73 to 78 moved—[Lord Advocate]—and agreed to.*

*Section 70, as amended, agreed to.*

### Section 71—Repeals and revocations

**The Convener:** Amendment 79 is grouped with amendments 80 to 82.

**The Lord Advocate:** The amendments are consequential amendments and nothing needs to be said about them.

I move amendment 79.

*Amendment 79 agreed to.*

*Amendments 80 and 81 moved—[Lord Advocate]—and agreed to.*

*Section 71, as amended, agreed to.*

### Schedule 4

#### REPEALS AND REVOCATIONS

*Amendment 82 moved—[Lord Advocate]—and agreed to.*

**The Convener:** Amendment 83 is in a group on its own.

**The Lord Advocate:** The Law Commission recommended at paragraph 145 of its report that paragraph 4 of schedule 17 to the Water Act 1989 should be repealed without re-enactment. That paragraph substitutes a new power to require information in substitution for what is now section 64(1) of the bill. The power conferred by the 1989 act was wider than the power that is currently in the bill, but has never been commenced. The committee considered that it was not appropriate to remove the uncommenced piece of legislation in a consolidation bill. The Executive accepts that view and amendment 83 gives effect to it.

I move amendment 83.

*Amendment 83 agreed to.*

*Schedule 4, as amended, agreed to.*

*Section 72 agreed to.*

*Long title agreed to.*

**The Convener:** That ends stage 2 consideration of the bill. On behalf of the committee, I thank the Lord Advocate for his attendance and for lodging the amendments. I also thank him and Patrick Layden for their constructive approach and for engaging positively with the committee and its legal adviser, which we appreciate.

There will be an announcement about stage 3 of the bill in the business bulletin soon—probably tomorrow. We expect stage 3 consideration to

take place towards the end of the session. In the past, there has not been much difficulty with stage 3.

On behalf of the committee, I thank Tracey Hawe, who is the committee's clerk, and the clerking team for their assistance. I also thank Iain Jamieson, who is our legal adviser, and Ruairaidh Macniven for their invaluable input and assistance throughout the process.

*Meeting closed at 15:19.*

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