# TRANSPORT AND THE ENVIRONMENT COMMITTEE

Wednesday 27 March 2002
(*Morning*)

Session 1

£5.00

Produced and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by The Stationery Office Ltd.

Her Majesty's Stationery Office is independent of and separate from the company now trading as The Stationery Office Ltd, which is responsible for printing and publishing Scottish Parliamentary Corporate Body publications.

# CONTENTS

## Wednesday 27 March 2002



## TRANSPORT AND THE ENVIRONMENT COMMITTEE
**11th Meeting 2002, Session 1**

**CONVENER**

*Bristow Muldoon (Livingston) (Lab)

**DEPUTY CONVENER**

*Nora Radcliffe (Gordon) (LD)

**COMMITTEE MEMBERS**

*Robin Harper (Lothians) (Green)
Mr Adam Ingram (South of Scotland) (SNP)
*Angus MacKay (Edinburgh South) (Lab)
*Fiona McLeod (West of Scotland) (SNP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Des McNulty (Clydebank and Milngavie) (Lab)
*John Scott (Ayr) (Con)

*attended

**THE FOLLOWING ALSO ATTENDED:**

Lewis Macdonald (Deputy Minister for Enterprise, Transport and Lifelong Learning)
Mary Scanlon (Highlands and Islands) (Con)

**CLERK TO THE COMMITTEE**

Callum Thomson

**SENIOR ASSISTANT CLERK**

Tracey Hawe

**ASSISTANT CLERK**

Alastair Macfie

**LOCATION**

Committee Room 2

# Scottish Parliament

## Transport and the Environment Committee

*Wednesday 27 March 2002*

(*Morning*)

[THE CONVENER *opened the meeting at 10:08*]

**The Convener (Bristow Muldoon):** I welcome members of the press and public to the Transport and the Environment Committee's meeting. I have received apologies from Adam Ingram and from Fiona McLeod—she will attend, but not until about 10.30 am.

**Des McNulty (Clydebank and Milngavie) (Lab):** I apologise, too. I will have to depart for the Justice 2 Committee's meeting.

**The Convener:** I am aware of that. Des McNulty will have to depart for part of the meeting, because he has commitments with another committee. I note that apology.

## Items in Private

**The Convener:** Does the committee agree to take agenda items 5, 6 and 7 in private? Item 5 is consideration of how we will proceed with the 2003-04 budget process. We may discuss whom we wish to take evidence from. Item 6 is discussion of the remit for our rail industry inquiry. As soon as that is agreed, it will be made public. Item 7 is consideration of whether to pay expenses for a witness who gave evidence for our aquaculture inquiry. Do members agree to take those items in private?

**Members** *indicated agreement*.

**The Convener:** Do members also agree that, at our next meeting, which is on 17 April, we will take in private consideration of lines of questioning for witnesses as part of our aquaculture inquiry?

**Members** *indicated agreement*.

## Subordinate Legislation

### Bus User Complaints Tribunal Regulations 2002 (draft)

**The Convener:** Item 2 is consideration of an affirmative instrument. I welcome to the meeting Lewis Macdonald, who is the Deputy Minister for Enterprise, Transport and Lifelong Learning and many other matters, and I also welcome several Scottish Executive officials.

A covering note on the Bus User Complaints Tribunal Regulations 2002 has been circulated to members. As the instrument is subject to the affirmative procedure, Parliament must approve it before it comes into force. The sponsoring minister, Wendy Alexander, has lodged a motion that the committee recommend approval of the instrument. Lewis Macdonald is present to support the motion and to participate in the debate on the instrument.

The Subordinate Legislation Committee considered the instrument at its meeting on 5 March and asked the Executive questions about it. The exchange between the Executive and that committee is detailed in the covering note.

The Transport and the Environment Committee must report on the instrument by 15 April 2002. We will follow our standard procedure for affirmative Scottish statutory instruments. Initially, I will allow questions of clarification to the minister and the officials. I ask members not to debate the instrument at that time, but to restrict themselves to genuine points of clarification. After that, I will ask the minister to move the motion and we will have 90 minutes in which to debate the regulations, although I hope that we will conclude the business in substantially less time than that. Before I ask members whether they have questions for the minister or the officials, I ask the minister to make an opening statement.

**The Deputy Minister for Enterprise, Transport and Lifelong Learning (Lewis Macdonald):** Some of the complaints that the bus user complaints tribunal receives will be about buses that have not arrived or left on time, so I made a point of arriving at the committee early. I hope that we roll through the business in a way that does not cause too many complaints.

The background to the regulations is the Transport (Scotland) Act 2001. In the policy memorandum to that act, we explained our policy intention to give bus users access to decisions and a voice in securing better services. We met that intention by introducing statutory consultation procedures for all elements of bus services, such as quality partnerships, quality contracts, ticketing schemes and the provision of information.

In addition, at stage 2 of the Transport (Scotland) Bill, we introduced a new section to provide a framework for the bus user complaints tribunal, which will address passengers' complaints about bus services. That provides a new statutory appeals procedure when a bus operator fails to resolve satisfactorily a bus user's complaint. Section 41 of the 2001 act provides Scottish ministers with the power to establish by regulation a tribunal whose remit is to consider complaints from individuals about the delivery of local registered services that bus operators have not satisfactorily resolved.

The regulations establish the tribunal for the purpose of determining any written complaints that are made about the delivery of such services. They also allow the tribunal to determine the payment of reasonable compensation, according to actual out-of-pocket expenses, when an operational failure has occurred. The regulations do not enable the tribunal to consider complaints about changes to bus services. That is a separate matter, which will be covered not by the tribunal but by the bus company or the local authority, depending on the service. The tribunal will deal with individual users' complaints about the failure of a service to deliver and not about where services are provided.

A good example of the kind of complaint that the tribunal might deal with is when the last bus of the evening fails to show up or leaves early and the traveller has to get a taxi in order to complete their journey. In those circumstances, we would expect the bus operator to provide compensation to the traveller. If the traveller finds that they have not been compensated and wishes to pursue the matter further, they should come to the tribunal. In other words, if a person has faced a financial loss as a result of the bus service not delivering to timetable, that case is appropriate for the tribunal to consider.

10:15

It is also worth noting that, although the compensation that the tribunal awards is limited to loss on the part of the traveller, the tribunal will have the power to report to Scottish ministers. Indeed, it is required to do that. It will also report to the traffic commissioner. Scottish ministers will lay a copy of any such report before Parliament, which will enable Parliament and the committee to monitor the work of the tribunal in the context of the overall package of accountability to the public of bus operators. It is clearly important to acknowledge that the majority of complaints are dealt with by the operator and are dealt with in a satisfactory way. However, we intend to provide the bus user with another avenue if that fails to happen.

The Subordinate Legislation Committee has raised some points about the regulations. I hope that members will find that our responses deal satisfactorily with those points. Obviously, I am happy to answer any questions. I believe that the tribunal strikes the right balance between safeguarding users' interests and encouraging the bus operators to seek continually to provide better-quality services. If there is one purpose behind the legislation, it is to raise the quality of bus services across Scotland. With those introductory remarks made, I will take any questions.

**John Scott (Ayr) (Con):** According to the Subordinate Legislation Committee's report, the regulations seem to contain drafting difficulties. For my clarification, will the minister outline how he has addressed those difficulties?

**Lewis Macdonald:** We have acknowledged one or two points where the drafting might have been tighter. However, as with all legislation, we wish to propose regulations that are practical and workable. There is nothing in the Subordinate Legislation Committee's comments that detracts from the practical aspect of the proposals.

Our response is to acknowledge that one or two matters could have been more precisely drafted. However, in the context of the type of tribunal that we are talking about and the scale of issues with which it will deal, the regulations as drafted are clear enough. It is clear that the regulations will achieve their policy intentions, that they will be workable for those responsible for making them work and that they will be accessible to users. We are satisfied that the regulations are adequate, that they will achieve what they are intended to achieve and that they are proportionate to the circumstances of the tribunal.

**Nora Radcliffe (Gordon) (LD):** I have a small point about the convener of the tribunal acting as the recipient of appeals. That is justified because it might be decided that

"the convener should act in an appellate capacity only."

It would be useful to define what that means.

**Lewis Macdonald:** The decision would be a matter for the tribunal. However, if the tribunal is concerned about the issue in the way that the Subordinate Legislation Committee has suggested, it might choose that the convener should deal with appeals and not with main complaints. That is what that means.

It is entirely for the tribunal to determine its procedures within the framework of the regulations. However, the tribunal is not a body that will determine people's civil rights. It will deal with unresolved complaints and award sums in compensation that are likely to be relatively minor on the scale of compensation for other purposes. I

have no particular view on how the tribunal might want to structure its procedures and I would be relaxed about whatever decision it chose to make in that regard.

**Nora Radcliffe:** We talk about the tribunal, but how are its members appointed and who are they? I cannot see anything in the Executive's note that outlines how the tribunal came into being.

**Lewis Macdonald:** As I said in my opening remarks, the tribunal came into being as a result of the Transport (Scotland) Act 2001. The Executive appoints tribunal members. We have begun the process with a view to making early appointments, once the Parliament has approved the regulations. We hope to have a convener, who will receive a small fee, and two other members, who will receive expenses only, in place shortly, so that the tribunal is up and running in the next few weeks.

**The Convener:** As no other member has a question for the minister, we will move into the formal debate.

*Motion moved,*

That the Transport and the Environment Committee, in consideration of the draft Bus Users Complaints Tribunal Regulations 2002, recommends that the Regulations be approved.—[*Lewis Macdonald.*]

**The Convener:** Do members wish to speak in the debate on the issue?

**Nora Radcliffe:** The regulations are a good thing and we are glad to see them.

**The Convener:** Thank you. Does the minister wish to reply?

**Lewis Macdonald:** No. I am sure that Nora Radcliffe's view is representative of the committee and the Parliament. One of our commitments is to improve accountability and consultation. I welcome the committee's support.

*Motion agreed to.*

**The Convener:** I thank the minister for attending and look forward to seeing him again in the future.

## Mobility and Access Committee for Scotland Regulations 2002 (SSI 2002/69)

**The Convener:** The next item is consideration of SSI 2002/69, which was laid before the Parliament on 26 February 2002 and came into force on 22 March 2002. The time limit for parliamentary action expires on 21 April 2002 and we are required to report on the instrument by 15 April 2002. The Subordinate Legislation Committee considered the instrument at its meeting of 5 March. No points were raised on it. I note that no motion has been lodged to annul the instrument. On that basis, do members agree that the committee does not need to draw the regulations to the attention of the Parliament?

**Members** *indicated agreement*.

**Nora Radcliffe:** Again, the regulations are to be welcomed.

# Petition

## Genetically Modified Crops (PE470)

**The Convener:** The next item is consideration of petition PE470, on genetically modified crops. The petition was lodged by Mr Anthony Jackson on behalf of the Munlochy vigil. Two weeks ago, the Public Petitions Committee referred the petition to us. A covering note, which is attached to the petition, includes a copy of the petitioners' oral evidence to the Public Petitions Committee as well as a copy of the Transport and the Environment Committee report on genetically modified organisms, which was published in January 2001.

Various options are open to us and I will seek members' views on those options in a moment. First, I want to draw members' attention to some of the issues involved in the petition, including the fact that the committee has conducted an important review into the matter. As I mentioned, in January 2001 we produced a report on petition PE51, lodged by Friends of the Earth Scotland, on the subject of GMOs.

I joined the committee towards the end of that inquiry. I know that Robin Harper and Nora Radcliffe were members of the committee for most of that time, but other members have joined the committee since the report was produced. The report made a number of recommendations, one of which was that, in the context of the legal framework, there is a role for farm-scale trials in a cautious—but not necessarily restrictive—approach to GM crop development. Although at the time a number of members, including Robin Harper, disagreed with that view, it is important to note that the committee accepted the recommendation.

In considering the petition, we must take the legal framework into account. On the issue, we are guided by European Union directives. My understanding of the situation is that, although Scottish ministers may order trials not to go ahead, they can do so only when the decision is based on sound scientific evidence that the trial poses a risk to the environment or to health. That is the framework in which ministers operate.

The paper suggests a number of options for how the committee might progress. I invite views from members.

**Maureen Macmillan (Highlands and Islands) (Lab):** As you know, convener, I live about 50 minutes' drive from Munlochy in the Black Isle. I am well aware of the strong local concern about the GM oil-seed rape trials. The trials are to discover not whether double quantities of food can be grown, but whether a weedkiller-resistant crop can be produced. The herbicide that is used is glufosinate ammonium and concerns have been expressed about its possible effects on humans and wildlife.

Members have probably been inundated with e-mails on the issue from people who are totally unknown to them. I know many of those people well. They are ordinary people who are outraged that the test is taking place in their community without their permission. In a survey of 100 households in Munlochy, 100 per cent of them expressed concern that the decision to grow the crops was made without any input from them.

Organic farmers have also expressed concern. Donnie Macleod, who has an organic farm across the Moray firth in Ardersier, was sent to jail for contempt of court because he would not give evidence against the people who had cut an X in the crops on the eve of the Westminster elections. If organic farmers lose their certification through contamination from GM crops, they do not get compensation. I believe that, a couple of years ago, Donnie Macleod received a £40,000 grant to progress organic farming; now there is GM oil-seed rape close to his farm.

**The Convener:** Will you be as concise as possible, please? I do not want us to get into a full-blown debate on the issue.

**Maureen Macmillan:** Recently, English Nature, the Royal Society and the chair of the British Medical Association have raised new concerns. Ross Finnie said that, if new evidence on the effects on health or the environment emerged, he would stop the GM crop trials. I want the committee to write to the minister to discover whether the concerns of the organisations that I mentioned have been examined. New evidence appears all the time, but no notice is taken of it.

**Robin Harper (Lothians) (Green):** I would like to take up some of the points that Maureen Macmillan made. First, the committee's initial report on GM organisms is substantially out of date. The new evidence from English Nature, the European Environment Agency and New Zealand supports the view that the trials are—to put the matter bluntly—not a good idea.

On the basis of what the minister has said, the evidence must be brought to his attention and he must respond to us in detail on it. He has said that, faced with evidence of possible or actual contamination, or dangerous developments, he would stop the trials. It is important that we approach the minister immediately. If the response from the minister is not sufficient, it is this committee—despite its heavy work load—that should take responsibility for hearing some of the evidence.

We cannot say that it is all right to hand the matter over to the Health and Community Care

Committee—health is one of many important issues that we need to discuss. We are told that we could not support any new reporter work. Appointing a reporter would be a delaying tactic, because all the evidence is mounting up. All we need to do is access that evidence by inviting people to the committee. It would take us one meeting to go over the evidence and submit a report to the minister. We would have to do that some time in the future. What is urgent is to get a response from the minister as soon as possible, in the hope that he will respond favourably and will take precautionary action as a result of the evidence that is available for his consideration.

10:30

**The Convener:** On the basis of expert evidence, ministers can decide whether to grant consents for Scottish trials of GM crops. However, that has to be based on evidence that assesses the risks to health or to the environment. It is appropriate that we write to the minister, asking how, in the light of any recent evidence, he views the petition.

In its report last year, the committee considered that further research into the potential environmental risks associated with GM releases was necessary. There will be on-going work in that area, and it is appropriate that we ask the minister to respond to the committee with his view on what is suggested by recent scientific research evidence and on how that would influence the decisions reached by the Executive. I suggest that we should obtain that response before deciding what further to do.

**Angus MacKay (Edinburgh South) (Lab):** To be fair, I do not think that Robin Harper was suggesting that we jump in with both feet and say that we are appointing a reporter and doing X, Y and Z. Robin's first point was that serious questions are being raised, to which we must seek answers. The first port of call is to ask Government ministers for their view of the questions that are being raised. That would be fair and reasonable and that is the path that the committee should take.

The committee must approach this honestly. We have a fairly full work load—I for one am keen to get stuck into the rail inquiry. I am not saying that we should do nothing but, when we return to this issue, we must be clear what that means for our work load. It may be a matter of reporter time—if we go down that path—evidence-taking time or investigative time. We must be clear what is on the table already and what we might be shunting off in order to address this issue. That is not to speak against the idea of addressing the issue; it is just that I want the committee to be very clear about what it can and cannot do as a consequence.

Maureen Macmillan mentioned the vast number of e-mails that have been received in the past few days. In the past week or so I have dragged myself into the last century and learned how to use e-mail, so I have read many of those e-mails personally. After reading them and the supporting papers for the meeting, I am aware that there is a substantial European dimension to the issue. We should consider not only writing to Executive ministers but trying to raise the matter in the European context. Europe appears to have a fairly healthy role to play here. If there are European rules governing decisions that are made about GM crop experimentation, we should seek a perspective from the appropriate part of the European Union on the evidence that has been brought to our attention by the petitioners—evidence that, as Robin Harper has said, has emerged in other areas.

**The Convener:** I have considered this issue and I am perfectly relaxed about our taking it further, possibly with the environment directorate-general, and raising questions on the legal position and on continuing research. That would be an appropriate additional step for us to take.

The extensive number of e-mails that members have received has been mentioned and I want to put on record that, although I have not been able to respond to them, I have read them diligently. I hope that people who have not received a personal response will accept my apologies—my resources are limited to one and a half staff and me, but I assure people that I try to read and consider all the e-mails that I receive.

**John Scott:** I concur with everything that has been said. It is essential that Scottish ministers evaluate the new evidence. As a committee of lay people, we are not in a position to evaluate the new evidence ourselves, but Government scientists must do so and we must put our trust in what they tell us.

I wonder whether we should consider asking the Health and Community Care Committee to assess whether health risks are involved. This is the Transport and the Environment Committee and potential human health risks are outwith our remit. However, the Health and Community Care Committee may wish to comment on the petition in case new evidence emerges in relation to public health.

We should choose a combination of options B and C. In addition, the Health and Community Care Committee should be made aware of the new evidence.

**The Convener:** I suggest that we should hold back on that until we have received a response from the Executive. We should ask for a comprehensive Executive response to the petition,

co-ordinating the responses of the various departments.

**John Scott:** That is fine by me.

**The Convener:** We could then consider whether we wished to involve the Health and Community Care Committee.

I will take contributions from Nora Radcliffe and Fiona McLeod so that everyone will have contributed once; I will then offer members a second bite of the cherry.

**Nora Radcliffe:** The very first farm-scale trial of oil-seed rape was in my constituency, about four miles from where I live, so I obviously looked into the issue in some detail at the time. What is not always appreciated is that the strains of oil-seed rape that have been tested in the trials are licensed by the European Union for commercial growth. People overlook the fact that, without the voluntary moratorium on the commercial exploitation of the crops to allow the farm trials to continue, the crops could be grown commercially in the UK now.

We should write to the Executive for clarification of the basis of the trials, their purpose, and the monitoring and safety measures connected with them. However, for a re-evaluation of the licensing of the crops, we will have to go back to Europe. We should ask the Executive whether questions have been asked at European level on whether we should re-evaluate, in the light of new evidence, the licences that have been granted to particular crops and seeds.

**Fiona McLeod (West of Scotland) (SNP):** I apologise for my late arrival—I had two late trains, one after the other. I hope that I will not be restating things that have been said. I presume that some members have updated others on the recent scientific research that has put field-scale trials in doubt. Convener, I am picking up that you are suggesting that we write to the Executive to ask its views on the scientific opinion. Is that correct?

**The Convener:** Yes. I am suggesting that we write to the Executive asking first for a definitive explanation of the legal position as it applies to individual trials and, secondly, about the broader issue of genetic modification. I understand that the Executive can forbid individual trials if the decision is based on sound scientific evidence of harm, but it cannot impose a widespread moratorium. That is my understanding, but we should seek a definitive explanation from the Executive on the legal position, and seek its response to on-going scientific research in the area.

**Fiona McLeod:** We have to bear in mind the urgency of the situation and the need for speed. At the Munlochy site, which I visited in January, the crop will be flowering in four to five weeks. That is when we will start to have the serious problems of harm to the environment and public health. Speed is needed.

On the legal position, we can take the minister at face value in his answer to parliamentary question S1O-4861, in which he said that ministers have the power to call a halt to the planting at any time, and that ministers will have no hesitation in using that power if the evidence exists. It is clear that Ross Finnie knows that he has the power to stop the plantings. I contend that he also has the power to plough up the already planted GM plants. The legal position is clear; we do not need to waste time writing to the Executive to ask it to reiterate what it has already told us.

On the Health and Community Care Committee—

**The Convener:** I wish to clarify that, although the minister said that he had the power to halt planting, he said that such action would depend on scientific advice on harm to human health or the environment. That is a key point.

**Fiona McLeod:** We could write to the Minister for Environment and Rural Development asking what scientific advice he is taking, but his legal position is clear. According to the advice of Dr Charles Saunders, the public health consultant from Fife, there is a threat to public health—the advice and evidence exist. That is why we should urgently refer the petition to the Health and Community Care Committee. That committee knows its work load; it is up to it to decide whether it wishes to take evidence from Dr Saunders in the first week after the recess. We should not delay that committee's opportunity to make that choice by not referring the petition to it at this point.

As I came late to the meeting, I am trying to pick up the discussion. Given the urgency of the situation, and given that we spent a fair amount of time examining GM organisms more than a year ago, we have to update with urgency the knowledge that we gained then. We cannot await answers from a minister when we are at the last meeting before the recess. I would like us to take a decision today to move forward in the fastest possible manner. If the fastest possible manner is to appoint a reporter today to produce the scientific evidence and a list of possible witnesses for the first or second meeting after the recess, I would like us to do that.

**The Convener:** The work load of the committee is such that I do not favour committing ourselves until we have a response from the Executive. Appointing a reporter would not make any difference to decisions that the Executive takes on Munlochy over the next four or five weeks—that would be tokenism rather than anything else. The

only way in which the action that Fiona McLeod wishes to happen will take place is if the Executive acts on the basis of scientific advice. Appointing a reporter now would not make any difference to that but would create a false expectation that the current situation will change. I do not see the benefit of appointing a reporter at the moment. As Angus MacKay said, if we commit ourselves to a substantial body of work, we will have to consider carefully what other areas of the work programme we wish to delay or cancel. We should consider that once we have received the Executive's response to the questions that we have put to it.

**Fiona McLeod:** If I could respond—

**The Convener:** I am sorry, but other members have been asking to come back in. I will call them first and give you a chance to come in again later.

**Maureen Macmillan:** I endorse what Fiona McLeod says about the urgency of the situation. The oil-seed rape will flower in May. If we decide to write to the minister, we will want an urgent answer from him.

I also want to talk about the European dimension. I have with me a letter that was sent by Commissioner Wallström to Catherine Stihler MEP, about who is responsible for what. The last petition that the committee considered concerned part B of directive 90/220/EC, which is about the authorisation and regulation of experimental releases. It is firmly within the competence of the member state to decide about that; the matter does not have to be referred to Europe. I can supply a copy of that letter if you wish.

10:45

**John Scott:** We would not wish to delay the minister's response to the most important question, which is whether the trials should go ahead—or rather whether they should be completed, as one has to remember that this is year 3 of a three-year trial. Some importance should be attached to completing the trial if that is at all possible. It has also emerged that liability is an issue, and that insurance companies are not prepared to pick up the potential liability for damage.

We should seek from the minister, as part of his response, some idea of his thinking on who is to pick up the liability for the trials should it be proved that they have inflicted damage on neighbouring farms. However, that may take the minister some time to ponder, and I would not want that question to get in the way of his immediate response to evaluating the new scientific data put in front of him. That said, it is an issue that the Executive should address.

**The Convener:** I accept that we wish the Executive to respond to our correspondence promptly, in particular on the trials at Munlochy. I think that we could express that wish in our correspondence.

**John Scott:** Nonetheless, if livelihoods are being threatened, there has to be some decision on who is responsible.

**Robin Harper:** I wish to underline how urgent the situation is. A summary produced by the European Environment Agency covering the scientific research that has been carried out in Europe contains a list of about 10 genetically modified crops, all of which are identified as having some risk to the environment, and of which oil-seed rape carries the highest risk, both in the crop-to-crop transference of genes and in the transference of genes to wild relatives. Yet that is the crop that is being planted all over Scotland.

The minister should be asked to respond urgently. I think that it would be fair to ask him to do so within two weeks. It is not as if we are asking him to commission any research. The research has been done; all that he needs to do is to read through it. I am referring to the research carried out by English Nature and the EEA.

**Angus MacKay:** I am not sure whether this is proper, but I would like to put questions to members who have raised interesting points of which I was not aware.

Fiona McLeod talked about the legal powers. There seems to be a growing body of evidence about what those are. I think that Fiona said that she was clear that the minister could order the crop to be ploughed up. That is interesting. Could she tell us a little bit more about that? That would indicate that there is the possibility of fairly direct—

**The Convener:** I think that I can answer that particular point.

**Angus MacKay:** May I put my second point on the record now as well?

**The Convener:** Yes.

**Angus MacKay:** I am interested in what Robin Harper said about the research that has been carried out. If the research indicates that oil-seed rape carries the highest risk, is that because the oil-seed rape crop's genetic composition crosses with that of other crops most easily?

**Robin Harper:** Yes.

**Angus MacKay:** Is it because oil-seed rape is the most widely used crop in GM experimentation?

**Robin Harper:** No—it is the first reason that you mentioned.

**Angus MacKay:** Thanks. That is useful.

**The Convener:** Article 6 of directive 90/220/EEC gives the Scottish Executive powers

to modify the conditions of, suspend or terminate a deliberate release for research and development, if information subsequently becomes available that could have significant consequences for the risks posed by the release. Where there is evidence of risks to human health or the environment, the Executive has the power to suspend or terminate a release.

**Fiona McLeod:** I want to address some of the points that have been made about the committee's work load. We must recognise the urgency of the issue. I do not propose that we produce a detailed report on GMOs, starting from first principles, like the report that we did two years ago. We want a short, sharp report—almost a literature review of the scientific evidence that is currently available—so that the committee can say to the Executive, "There is the evidence, which is clear. Here are the powers that you know you have. Make use of them right away." The convener has mentioned the powers that the Executive has.

The approach that I have suggested is in line with the findings of our original report, which argued that we should apply the precautionary principle to GMOs. Two years on from the start of our original inquiry, the evidence that is before us is much more compelling than the evidence that was available to us at the time. It would be wrong for the committee not to move forward urgently on that evidence. The convener said that appointing a reporter would be tokenism. If that is the worry, I would be happy to put my name forward as reporter. That would not be tokenism—I would want within two or three weeks to present the committee with a clear and concise review of the scientific literature, which the committee could then make a clear decision on and present to the minister.

The convener has said that the decision is for the Scottish Executive, but one of the jobs of this committee is to scrutinise the decisions that the Scottish Executive makes. If we do a short, sharp literature review and present that to the minister, saying, "Here is the evidence. Use your powers and plough up that crop before it flowers," we will have done our job as a committee of the Parliament. That will not have been tokenism.

**The Convener:** It would not be appropriate for the committee to reach a rushed decision on the basis of scientific evidence that may be variable. It would be a breach of the principles on which the Parliament is based for the committee to make a rushed decision on the basis of two or three weeks' work by one member. Any substantive recommendations that we make should be based on a solid study of the evidence. I do not think that the actions that Fiona McLeod proposes would produce that. Other members may take a different view.

**Fiona McLeod:** I would bring my 20 years' professional expertise as an information scientist to any short, sharp literature review.

**The Convener:** You may be an information scientist, but I do not believe that you are a biologist.

**Nora Radcliffe:** I want to express my reservations about the way forward that Fiona McLeod has proposed. We want assurances from the Executive that the new research has been properly taken into account by an expert body such as the Advisory Committee on Releases to the Environment, which has the scientific knowledge properly to evaluate the research that has been done. It is not for us as lay people with no professional or scientific expertise to evaluate the evidence. However, as Robin Harper said, we need to ensure that it has been considered by Government scientists—people who know how to evaluate the new research and take it into account.

**Angus MacKay:** In this instance, I prefer the approach that Robin Harper has recommended to that proposed by Fiona McLeod. There is a general issue here, but the particular point that concerns us is the fact that the crops in these trials will flower in four weeks' time. As Robin Harper suggested, I would rather the Executive was required to give an answer to the question that the committee is raising within, say, a two-week time span.

If new scientific evidence is emerging, the Executive must either rebut or accept it. It must explain to the committee which of the two courses it wishes to take and why it wishes to take that course in time for a rational judgment to be made and for a debate to take place, which could inform a decision on whether the crop needs to be ploughed up.

I am worried that appointing a reporter and trying to do a science literature review would cloud rather than clarify the issue. I would prefer the committee to be clear about what the Executive needs to do and about the time scale in which it needs to allay fears or accept that the legitimate questions that are being asked are unanswerable, in which case it would need to take direct action. I do not want the issue to be clouded.

**John Scott:** Does anyone know whether the new scientific evidence has been peer-group reviewed?

**Robin Harper:** I imagine that the European Environment Agency evidence has been. It would not publish evidence in such detail if it had not been peer-group reviewed.

I do not think that we should reject Fiona McLeod's offer out of hand. We should mention

the reports in a letter to the minister and ask whether he has read and will consider the latest evidence that has been produced. There is a lot of it. We should ask whether he will reconsider his decisions on the plantings in the light of the new evidence and what he said about what he is prepared to do if he is given evidence that they pose a possible or actual risk to the environment. When we receive his reply, we should put the issue on the agenda for further consideration at our meeting three weeks from now, so that we can proceed with the utmost speed. We should keep open the option of a reporter, which Fiona McLeod suggested. As I am still the reporter on aquaculture, I cannot offer my services, although I would like to. We should not reject her offer out of hand.

**The Convener:** I do not reject out of hand the suggestion of appointing a reporter in due course, but we should not appoint a reporter now to conduct a rushed review. If the committee wished, it could appoint a reporter later.

In general, I agree with Robin Harper. We should ask the Executive to respond urgently to the questions that have been raised. We should ask the Executive to respond to what Robin Harper and Angus MacKay said and ask it to respond to the new scientific evidence. We should ask it to say whether that evidence is influencing its decisions on whether to allow individual trials to continue.

**Robin Harper:** I also support the suggestion that the issue of health risks should be referred to the Health and Community Care Committee.

**The Convener:** I would prefer not to do so today. If the committee wanted to, it could easily refer that issue at the next meeting. Realistically, the Health and Community Care Committee will not consider the matter in the next two to three weeks. I would prefer the committee to put that suggestion on hold until the next meeting, when we will have the Executive's response. We could then consider whether we wish to refer the health aspects of the matter to the Health and Community Care Committee. Are members prepared to accept that approach?

**John Scott:** In your response to me, you said that you would ask the Executive whether there was any new evidence about health implications.

**The Convener:** The petition raises environmental and health issues. I expect the Executive to respond comprehensively to the questions that have been asked.

**John Scott:** "Comprehensively" is the key word.

**The Convener:** That would enable us to decide whether to refer the petition to the Health and Community Care Committee.

**Robin Harper:** Can we ask Mary Scanlon—

**The Convener:** If Mary Scanlon wishes to contribute to the discussion, she is welcome to do so.

**Mary Scanlon (Highlands and Islands) (Con):** Can I be Des McNulty, as I am sitting in his seat?

**The Convener:** You can be Des McNulty for the day.

11:00

**Mary Scanlon:** I did not expect to be at this meeting of the Transport and the Environment Committee because I was attending a meeting of the Health and Community Care Committee.

I appreciate the committee's work load—it is a question of priorities. Like Maureen Macmillan, I am a Highlands and Islands MSP. I bring to the committee's attention the strength of feeling and concern among ordinary people in the Highlands and Islands. People go to the Highlands and Islands for fresh air and for clean, quality produce, so there is serious concern about GM crops. I commend the committee for taking such a serious and responsible approach to GM crops. I remind members—I am sure that Maureen Macmillan will support me—that there are serious health and environmental concerns as well as concerns from organic farmers about the matter. I am here to hear the committee's views and to make members aware of the enormous strength of feeling, not just in Munlochy but throughout the Highlands and Islands, about these trials or experiments. I commend the committee for not brushing the issue aside.

**The Convener:** I thank Mary Scanlon for her comments. On getting the matter on to the committee's agenda, I should point out that I consulted the clerks to ensure that the petition was brought to the committee promptly so that members could consider it. It is appropriate that we convey to the Executive the importance of a prompt response to our correspondence.

Does any member wish to speak before we agree the approach that the committee will take?

**Robin Harper:** I wish to press the point about referring the petition to the Health and Community Care Committee. Members of that committee can make up their own minds about when they should take up the petition. I do not understand why we cannot refer the petition to them now.

**The Convener:** I suggested waiting for the Executive's response because seeking a response within, say, two weeks would enable us to refer the petition to the Health and Community Care Committee—should we decide to do so—with additional information. That information would be

helpful to the Health and Community Care Committee. I do not understand what the great difference would be if we were to refer the petition to that committee today.

**Fiona McLeod:** I suggest that when we write to the Executive, we ask it to copy the reply to the Health and Community Care Committee. That would mean that it would receive the evidence of the impact on public health at the same time as this committee receives it.

**The Convener:** I am happy to ask the Executive to copy its response to the convener of the Health and Community Care Committee.

**Maureen Macmillan:** Can I clarify that point? Are we simply copying the reply to the Health and Community Care Committee or are we going to refer the petition to that committee today?

**The Convener:** No. I suggest that we defer consideration of referring—

**Maureen Macmillan:** We will refer the reply to the Health and Community Care Committee first and we might refer the petition to the Health and Community Care Committee later.

**The Convener:** Yes. Let me clarify my suggested course of action. We should write to the Executive to ask for definitive clarification of the legal position and for information on the Executive's legal power to intervene in a particular trial if there is scientific evidence of harm to the environment or to health. We should ask the Executive to respond to the scientific evidence that was referred to in today's meeting and to indicate how it views the trials with reference to that evidence. We may also wish to pursue the course of action that Angus MacKay suggested of raising the European aspects of the matter with the environment directorate-general. Do members agree with that approach?

**John Scott:** Will you also incorporate the liability element?

**The Convener:** We will incorporate the liability element into our correspondence with the Executive. Do members agree?

**Robin Harper:** Could we also include the evidence from New Zealand that I mentioned? There is a growing body of scientific evidence on soil repercussions.

**Nora Radcliffe:** Perhaps the committee would find it helpful, for background information, if the Executive were to outline in its response exactly what is happening at Munlochy, what the trials are for and the nature of the monitoring and so on that is associated with the trials. That would give us a clear picture of what is happening at Munlochy.

**The Convener:** Are we agreed on that course of action?

**Members** *indicated agreement*.

**The Convener:** We agreed to take item 5, on consideration of the budget process 2003-04, in private.

11:05

*Meeting continued in private until 12:55.*

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice at the Document Supply Centre.

No proofs of the *Official Report* can be supplied. Members who want to suggest corrections for the archive edition should mark them clearly in the daily edition, and send it to the Official Report, 375 High Street, Edinburgh EH99 1SP. Suggested corrections in any other form cannot be accepted.

The deadline for corrections to this edition is:

**Thursday 4 April 2002**

Members who want reprints of their speeches (within one month of the date of publication) may obtain request forms and further details from the Central Distribution Office, the Document Supply Centre or the Official Report.

PRICES AND SUBSCRIPTION RATES

DAILY EDITIONS

*Single copies: £5*
*Meetings of the Parliament annual subscriptions: £350.00*

The archive edition of the *Official Report* of meetings of the Parliament, written answers and public meetings of committees will be published on CD-ROM.

WHAT'S HAPPENING IN THE SCOTTISH PARLIAMENT, compiled by the Scottish Parliament Information Centre, contains details of past and forthcoming business and of the work of committees and gives general information on legislation and other parliamentary activity.

*Single copies: £3.75*
*Special issue price: £5*
*Annual subscriptions: £150.00*

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

*Single copies: £3.75*
*Annual subscriptions: £150.00*

Standing orders will be accepted at the Document Supply Centre.

Published in Edinburgh by The Stationery Office Limited and available from:

**The Stationery Office Bookshop**
**71 Lothian Road**
**Edinburgh EH3 9AZ**
**0131 228 4181 Fax 0131 622 7017**

**The Stationery Office Bookshops at:**
123 Kingsway, London WC2B 6PQ
Tel 020 7242 6393 Fax 020 7242 6394
68-69 Bull Street, Birmingham B4 6AD
Tel 0121 236 9696 Fax 0121 236 9699
33 Wine Street, Bristol BS1 2BQ
Tel 01179 264306 Fax 01179 294515
9-21 Princess Street, Manchester M60 8AS
Tel 0161 834 7201 Fax 0161 833 0634
16 Arthur Street, Belfast BT1 4GD
Tel 028 9023 8451 Fax 028 9023 5401
The Stationery Office Oriel Bookshop,
18-19 High Street, Cardiff CF12BZ
Tel 029 2039 5548 Fax 029 2038 4347

**The Stationery Office Scottish Parliament Documentation Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:**

**Telephone orders and inquiries**
**0870 606 5566**

**Fax orders**
**0870 606 5588**

**The Scottish Parliament Shop**
**George IV Bridge**
**EH99 1SP**
**Telephone orders 0131 348 5412**

sp.info@scottish.parliament.uk

www.scottish.parliament.uk

**Accredited Agents**
(see Yellow Pages)

and through good booksellers

Printed in Scotland by The Stationery Office Limited

ISBN 0 338 000003 ISSN 1467-0178