



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

RURAL AFFAIRS AND ENVIRONMENT COMMITTEE

Wednesday 17 November 2010

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RURAL AFFAIRS AND ENVIRONMENT COMMITTEE
25th Meeting 2010, Session 3

CONVENER

*Maureen Watt (North East Scotland) (SNP)

DEPUTY CONVENER

*John Scott (Ayr) (Con)

COMMITTEE MEMBERS

Aileen Campbell (South of Scotland) (SNP)

Karen Gillon (Clydesdale) (Lab)

*Liam McArthur (Orkney) (LD)

*Elaine Murray (Dumfries) (Lab)

*Peter Peacock (Highlands and Islands) (Lab)

*Bill Wilson (West of Scotland) (SNP)

COMMITTEE SUBSTITUTES

Rhona Brankin (Midlothian) (Lab)

Jim Hume (South of Scotland) (LD)

Jamie McGrigor (Highlands and Islands) (Con)

*Sandra White (Glasgow) (SNP)

*attended

THE FOLLOWING GAVE EVIDENCE:

Roseanna Cunningham (Minister for Environment)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Committee Room 2

Scottish Parliament

Rural Affairs and Environment Committee

Wednesday 17 November 2010

[The Convener opened the meeting at 10:02]

Decision on Taking Business in Private

The Convener (Maureen Watt): I welcome everyone to the Rural Affairs and Environment Committee's 25th meeting in 2010. Please remember to turn off your mobile phones and BlackBerrys, as they impact on the broadcasting system. I think that the system is up and working again; at one point, we thought that we might have had to operate the buttons ourselves today. Sandra White is substituting for Aileen Campbell.

Agenda item 1 is consideration of whether to take items in private. I propose that we take in private item 5 and any future consideration of budget evidence and our draft report. Item 5 is consideration of the committee's approach to the Scottish Government's draft budget proposals for 2011-12. Members will remember that we took evidence on tenant farming last week, and we will consider a draft letter to the Cabinet Secretary for Rural Affairs and the Environment on that issue next week. I propose that we take that item in private as well. Do we agree to take item 5 in private today and to take those other items in private in the future?

Members indicated agreement.

Subordinate Legislation

Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 (SSI 2010/354)

Animal Feed (Scotland) Regulations 2010 (SSI 2010/373)

10:03

The Convener: Under item 2, we have two negative Scottish statutory instruments to consider: the Feed (Sampling and Analysis and Specified Undesirable Substances) (Scotland) Regulations 2010 (SSI 2010/354) and the Animal Feed (Scotland) Regulations 2010 (SSI 2010/373). The Subordinate Legislation Committee has commented on the first of those instruments, and copies of the extract of its report that comments on the instrument have been issued to all committee members. No motions have been lodged to annul either of the instruments. Does the committee agree that it has no recommendations to make on the instruments?

Members indicated agreement.

The Convener: I suspend the meeting for a short time to allow the minister to come to the table.

10:04

Meeting suspended.

10:05

On resuming—

Waste Information (Scotland) Regulations 2010 (SSI 2010/Draft)

The Convener: Item 3 is more subordinate legislation. We will take evidence on an affirmative instrument, the draft Waste Information (Scotland) Regulations 2010. On Monday, members were sent an extract from the Subordinate Legislation Committee's report, which contained comments and correspondence on the instrument from that committee and the Scottish Government.

I welcome Roseanna Cunningham MSP, Minister for Environment; Gary Gray, policy officer in the zero waste delivery team; and Chris Graham, team leader of the zero waste delivery team in the Scottish Government. Under item 3, members can ask questions about the content of the draft instrument before we move to a formal debate on it. Officials may speak during this item, but may not participate in the debate. I invite the minister to make a brief opening statement.

The Minister for Environment (Roseanna Cunningham): Good morning, everybody. The draft regulations introduce a statutory obligation on businesses, voluntary organisations and charities that are asked to do so by the Scottish Environment Protection Agency to provide information on waste. Failure to comply could result in summary proceedings being taken and the possibility of a fine of up to £5,000 being imposed, which is at level 5 on the standard scale.

Section 79 of the Climate Change (Scotland) Act 2009 provides for the obligation to be introduced; members of the committee may remember discussing the matter during the debate on the Climate Change (Scotland) Bill. Discussions with witnesses during stage 1 of the bill revealed widespread concern about the lack of reliable data and the gaps in information, particularly regarding commercial wastes; therefore, the proposal to introduce the obligation was widely welcomed.

The draft regulations aim to address those gaps in waste information and to ensure that robust and reliable information on waste in Scotland is available to better inform policy makers, regulators and local authorities; to provide greater certainty for potential investors in the Scottish waste industry; and to ensure that returns to the European Commission are as accurate as possible. In accordance with section 79(5) of the 2009 act, the draft regulations were laid before Parliament on 26 October, which was within one year of the act receiving royal assent.

My officials and I will be happy to answer members' questions on the draft regulations. We have, however, been unable to get one of the legal officers to be available today. We will cope as best we can with any questions arising out of the Subordinate Legislation Committee's comments, but, if there are questions to which we are unable to respond today, we may require to ask the committee's indulgence while we obtain further information.

The Convener: Thank you, minister. I invite questions from members.

Elaine Murray (Dumfries) (Lab): I have a comment rather than a question. I think that I moved the amendment that required the draft regulations to be brought before us within a year.

Roseanna Cunningham: You will support the regulations, then.

Elaine Murray: I am very pleased to see that they have been brought before us within a year.

John Scott (Ayr) (Con): There is some concern about the meaning of the word "undertaking". Can you explore that concept a little bit?

Roseanna Cunningham: The definition that is given for the expression "undertaking" is kept deliberately broad so that it includes all private, public and voluntary sectors. There is a danger that, if we start to specify a tighter definition, we may lose some organisations from that. When we use such terms in their everyday sense, we all understand what they mean. To start to provide precise definitions of the private, public and voluntary sectors would not be as straightforward as it might at first appear. That is why the generic term "undertaking" has been used.

This is not a new usage of the term. It is already used in other legislation, particularly legislation about waste, such as section 33 of the Environmental Protection Act 1990, the Waste Management Licensing Regulations 1994 and the Radioactive Substances Act 1993. It has not caused any problems in practice in those contexts. The definition in our regulations is modelled on the one in the Radioactive Substances Act 1993 and we do not anticipate it causing any problems in this context either.

John Scott: So there is nothing to worry about.

Roseanna Cunningham: Absolutely nothing.

John Scott: I find that reassuring. Thank you.

Sandra White (Glasgow) (SNP): I have read the committee paper on the regulations and I am pleased to note that there will be no extra costs to voluntary and charitable organisations. However, under the heading "Competition Assessment", the paper says:

"Any business, charitable or voluntary organisation in Scotland that produces waste will be required to provide the requested data, if selected to do so".

Will you clarify that?

Roseanna Cunningham: Those organisations are already under a statutory obligation to compile that data. The reliance on entirely voluntary returns has proven to be rather ineffective. I think that I am right in saying that returns are slightly less than 17 per cent if they are left entirely voluntary. It is a sad comment, but without being backed up by some form of sanction, it looks as if people are not doing what they are meant to be doing.

The regulations are intended to enable SEPA, from time to time—we do not expect it to happen often—to go in with a slightly heavier hand, although we do not anticipate there being prosecutions. The regulations are really to ensure that all of these undertakings perform their pre-existing statutory obligations. From our perspective, it is important that we understand exactly what is happening.

SEPA is currently undertaking the development of its own waste data strategy. Some of the finer details—for example, how often and from how many undertakings the data will be requested—will not be available to us until SEPA concludes its waste data strategy study. It will not be and, for obvious reasons, cannot be all undertakings every year; my guess is that a certain number will be asked to provide the data over a cycle. SEPA may take a view that some appear more recalcitrant than others. However, that is a matter for SEPA. In the circumstances, I cannot say in much detail how SEPA will approach that.

Liam McArthur (Orkney) (LD): Paragraphs 11 and 12 of the Executive note provide reassurance about the limited financial impact and say that the data are already required to be gathered. Do the regulations require base data that SEPA will marshal into whatever form it needs, or will there be a requirement on businesses and voluntary organisations to produce the information in a particular way, which for smaller companies and voluntary organisations could, I suspect, present a bit of a logistical challenge?

Roseanna Cunningham: The organisations should already be compiling this information.

Liam McArthur: Indeed.

Roseanna Cunningham: In that sense, the regulations do not represent anything particularly new. All that we are asking organisations and businesses to do is to be rather more assiduous about producing the information when they are asked.

Liam McArthur: So you are confirming that they need to gather baseline data and that they will not be required to do anything with it prior to forwarding it to SEPA.

Roseanna Cunningham: There is nothing particularly extra to do. As I said, SEPA is developing a waste data strategy. It is as aware as anyone else of the need to keep regulation as clear and simple as possible. SEPA will ensure that the format of the data request is as straightforward to understand as it can be. It will do a test run of any forms devised for the purpose. A test run will be conducted with a sample of the businesses that will, in any case, be expected to react to such a request from time to time.

We are pretty confident that what we are doing will have as minimal an impact as possible, keeping in mind that we are talking about information that all those businesses should be compiling anyway. The regulations are simply about those businesses being able to hand over that information in a timely fashion when asked to do so.

10:15

John Scott: What use is being made of the information that those organisations are compiling at the moment?

Roseanna Cunningham: I made it clear in my opening remarks that the information is required for three reasons. First, it is about informing us all, as policy makers, regulators and local authorities. If we are not aware of the reality of the waste streams that are out there, it is hard to make policy decisions that reflect accurately what is happening.

Secondly, it is about providing certainty for potential investors in the Scottish waste industry. It is often forgotten that there are business opportunities out there in respect of much of what we do, including waste. It is hard to work up a business plan without an accurate idea of what the various waste streams are, what the percentages are and so on.

Finally, we have to make returns to the European Commission, which we must ensure are as accurate as possible. At a certain level, we are ensuring that the European Commission does not come along in the future with one of its after-the-fact decisions that we have not gone about this in a particularly robust way and that it wants us to do something different in future. We have been there before.

John Scott: Would it be fair to say that you are inviting the industry to pay for information gathering for the Scottish Government, the European Parliament and business development?

Roseanna Cunningham: You can characterise it like that if you wish, Mr Scott. In my view, that is an absurd way to describe what is happening. Every one of those organisations is already under a statutory obligation to compile that information. All we are asking them to do is to be in a position to hand it over. There is no point in compiling information that never gets used by anyone.

Businesses that are considering the potential business opportunities that are inherent in waste might hugely welcome the further information that the regulations will give them, which will help them to develop their business plans accordingly. It would seem extraordinary to me if we were to go forward in an information vacuum. As I understand it, that was precisely the nature of the debate during the progress of the Climate Change (Scotland) Act 2009. So there.

John Scott: I think that those who regard waste as a business opportunity would normally be in the habit of paying for the information that they gather. That is all I am saying. If everyone is expected to give information, you are putting a potential cost of £10 million on an industry.

Roseanna Cunningham: I remind members that we are talking about the private sector, the public sector and the voluntary sector. If we do not know what is going on out there in the area of waste, how on earth will we be able to plan things for the future? We have to be realistic about the kind of information that is required and how we use it. If we do not have the information, it is almost impossible to inform anything that we do in future. We had that debate during the progress of the 2009 act and Parliament was clearly of the view that regulations were required.

John Scott: Thank you for your response.

The Convener: There being no further questions, we move to item 4, which is the formal debate on the Waste Information (Scotland) Regulations 2010. I remind everyone that the officials cannot participate in the debate. I invite the minister to move the motion and to say anything else that she wishes to at this point.

Motion moved,

That the Rural Affairs and Environment Committee recommends that the Waste Information (Scotland) Regulations (SSI 2010/draft) be approved.—[*Roseanna Cunningham.*]

Motion agreed to.

The Convener: That concludes the public part of today's meeting. I thank everyone for their attendance.

10:20

Meeting continued in private until 12:47.

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