



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

FINANCE COMMITTEE

Wednesday 22 June 2011

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FINANCE COMMITTEE
2nd Meeting 2011, Session 4

CONVENER

*Kenneth Gibson (Cunninghame North) (SNP)

DEPUTY CONVENER

*John Mason (Glasgow Shettleston) (SNP)

COMMITTEE MEMBERS

*Alex Johnstone (North East Scotland) (Con)

*Derek Mackay (Renfrewshire North and West) (SNP)

*Margaret McCulloch (Central Scotland) (Lab)

*John Pentland (Motherwell and Wishaw) (Lab)

*Paul Wheelhouse (South Scotland) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED

Colin Brown (Scottish Government)

Richard Lochhead (Cabinet Secretary for Rural Affairs and the Environment)

CLERK TO THE COMMITTEE

James Johnston

LOCATION

Committee Room 4

Scottish Parliament

Finance Committee

Wednesday 22 June 2011

[The Convener *opened the meeting at 10:00*]

Finance (No 3) Bill

The Convener (Kenneth Gibson): Good morning. It has gone time, so I welcome everyone to the second meeting of the Finance Committee in the fourth session of the Scottish Parliament. I remind all members to turn off their mobile phones, BlackBerrys and pagers.

Agenda item 1 is to take evidence on the legislative consent memorandum that relates to provisions in the Finance (No 3) Bill, which is currently proceeding through the House of Commons. I welcome to the committee the Cabinet Secretary for Rural Affairs and the Environment, Richard Lochhead MSP. He is accompanied by David Barnes, deputy director for agriculture and rural development in the Scottish Government; Colin Brown, from the legal directorate; Ross Lindsay, council tax policy manager; and Paul Thomson, from the constitution and governance team. Members should note that the cabinet secretary is due to give evidence to the Rural Affairs, Climate Change and Environment Committee at 10.30 am in committee room 6.

I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Rural Affairs and the Environment (Richard Lochhead): Thank you, convener. It is a pleasure to be here. This is my first appearance before your new committee, and I congratulate all the members who have been appointed to this very important committee.

As the convener said, I am appearing before the Rural Affairs, Climate Change and Environment Committee for a couple of hours at 10.30, so appearing before you this morning to speak on this subject is a pleasant surprise.

The business before us is the Government's proposal for a legislative consent motion on the implementation of European directive 2010/24, which all member states must implement by the end of this year. The subject of the directive is mutual assistance in the recovery of taxes, duties and so on.

The idea is that if the authorities in one member state are pursuing someone for unpaid tax, they can if necessary ask for assistance from the tax authorities in another member state. It is not a new

policy, as there have been European Union directives on the subject for many years. We must now implement the amendments that the 2010 directive makes to the previous version.

Why does the Scottish Parliament need to take a view on this? The directive covers mostly taxation issues, which are—at least for the time being—reserved matters, but it contains two sets of issues that are devolved: agricultural levies and duties, and local taxes. The first of those falls within my portfolio, so I am happy to be here to represent the Government this morning.

I make it clear that the agricultural levies and duties in question are only those that are part of the common agricultural policy. They are duties that apply when certain products are imported into Europe from a non-EU country. For instance, if someone in France wanted to import sugar from Brazil, they would have to pay an import duty to the French customs authorities, which would, incidentally, pass the money to the EU budget, so France would not get any benefit. However, if that person did not pay the duty and fled to Germany, the French authorities could ask their German counterparts for help in recovering the money.

In the event of a case involving the United Kingdom or Scotland, Her Majesty's Revenue and Customs would act for the UK or Scottish authorities. The 2010 directive amends those arrangements in two ways. First, it changes the definition of the scope to make it clear that local authority taxes can be covered by it. Secondly, it improves the arrangements by which the tax authorities communicate and collaborate with one another, which, as I have explained, is essentially an issue for HMRC.

Legislation is needed to implement the new directive in Scotland. In the past, directives on this subject have always been implemented in Scotland via UK rather than Scottish legislation. That is usually viewed as a commonsense approach that reflects the fact that the scope of the directive is predominantly reserved issues. For that reason, the Scottish Government proposes to Parliament that we do the same again this time.

We understand that the UK Government would be happy to proceed in that way. However, because of the Scottish elections, this is our first opportunity to seek Parliament's agreement. In this particular case, the UK Parliament would implement the directive through primary UK legislation, which is why the procedure for giving the Scottish Parliament's agreement has to be a legislative consent motion.

Members may remember that the Scottish Parliament has done about 10 or a dozen LCMs a year on various subjects since devolution. We expect very little, if any, practical impact in

Scotland. HMRC tells us that it has had only a handful of cases over the years, and none in Scotland.

In summary, this is a slightly arcane piece of EU legislation with limited impact in Scotland, but we are required to implement it and the Government seeks Parliament's approval to do so in the most commonsense way.

The Convener: Thank you. Before I open it up to committee members, I will ask one or two questions just to warm you up. First, does the mutual assistance and recovery directive affect Scottish interests in any way distinct from how it affects those of the rest of the UK?

Richard Lochhead: No. As I explained in my opening remarks, the difference this time is that local taxes are covered. Although that is not distinct to Scotland, it is perhaps a new approach for us. In theory, the directive would kick in if, say, someone who had not paid their council tax bills had fled abroad.

The Convener: According to paragraph 16 of the LCM, including the relevant provisions in the Finance (No 3) Bill would

"ensure ... consistency of approach throughout the EU",

but how does transposition through the bill ensure such consistency throughout the EU rather than just within the UK?

Richard Lochhead: HMRC is the relevant authority on all the reserved aspects of this matter, but I will ask my colleagues whether they can respond specifically to the question of consistency across the EU. Of course, you might say that that would be imposed by the EU itself.

Colin Brown (Scottish Government): The European Union will check and monitor whether each member state has imported the directive into its domestic law in the required manner.

The Convener: Basically, then, the LCM simply seeks to ensure a clear and consistent approach across the EU with regard to these matters.

Richard Lochhead: Yes. As with most directives, Europe will, as you have just heard, ensure that this directive is applied consistently across all member states.

John Mason (Glasgow Shettleston) (SNP): With regard to consistency, the feeling is that the experience across Europe is not consistent and that it is easier to work with some countries than with others. Are we convinced that our local authorities will find it easier to get council tax back from some of those countries?

Richard Lochhead: Ultimately, we have to look to the European Commission, which will enforce the directive. If HMRC, which is a reserved body

and not accountable to us, were to be approached by a Scottish local authority to recover council tax and experienced difficulty with one of the other member states, it would have to take the matter up with the Commission.

John Mason: Do we stand to gain more than we lose out of this? Do we know whether there are a lot of Scottish people overseas from whom we could start getting back council tax or agricultural levies?

Richard Lochhead: No. Local authorities, which chase unpaid council tax bills, would be in the best position to answer that question but, from our discussions with local authorities and the Convention of Scottish Local Authorities, our understanding is that this is a negligible issue and that the mechanism is unlikely to be used much, if at all, in Scotland.

John Pentland (Motherwell and Wishaw) (Lab): You said that very few of these cases have come before HMRC. Will the LCM lead to more such cases and make it easier for HMRC to go for these people who have gone abroad?

Richard Lochhead: The legislation itself is not new; this is simply the latest directive on a matter that has been the subject of previous directives. Irrespective of the fact that local taxes are now included, we still need the LCM because the directive is being implemented across the UK through an updated finance bill from London. However, as I have said, the new aspect is the inclusion of local taxes. I have no evidence to suggest that the system will be improved; the system itself is already in place, but the LCM reflects the fact that a small change has been made that affects Scotland.

The Convener: There seem to be no other questions. You have had an easy morning so far, cabinet secretary—I hope that the rest of your day is equally as positive.

Richard Lochhead: So do I.

The Convener: I thank you and your officials for your time.

Is the committee happy with the content and terms of the LCM and content for a short report to be drafted that refers to the *Official Report* of this evidence session?

Members indicated agreement.

The Convener: Item 2 is the appointment of a budget adviser. At its meeting on 15 June, the committee agreed to take items 2 and 3 in private, so I now close the public part of this meeting.

10:09

Meeting continued in private until 11:10.

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